

**Chowan County Subdivision Ordinance  
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## **CHAPTER 2 SUBDIVISION ORDINANCE**

### **Preamble**

WHEREAS, in the opinion of the Board of County Commissioners of Chowan County, it is necessary and advisable to provide for the orderly development of the County and its environs; for the co-ordination of streets within proposed subdivisions with existing or planned streets and with other public facilities; for dedication or reservation of rights-of-way or easements for streets and utility purposes and for the distribution of population and traffic which shall avoid congestion and overcrowding, and which shall create conditions essential to public health, safety, and general welfare; and,

WHEREAS, pursuant to Chapter 153A, Art. 18, Part III, of the North Carolina General Statutes, notice was duly given and public hearing held on the question of adoption of this Ordinance, and all objectives hereto being properly presented and considered.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Chowan County, North Carolina.

## **ARTICLE I: GENERAL PROVISIONS**

### **SECTION 1.0 - AUTHORITY:**

Chowan County hereby exercises its authority to make and adopt a subdivision ordinance under provisions pursuant to Chapter 153A, Article 18, of the General Statutes of North Carolina.

### **SECTION 2.0 - TITLE:**

This ordinance shall be known as the "Subdivision Ordinance for Chowan County, North Carolina," and may be referred to simply as the "Ordinance."

### **SECTION 3.0 - REENACTMENT AND REPEAL OF EXISTING SUBDIVISION ORDINANCE/REGULATIONS:**

3.1 This regulation, in part, carries forward by reenactment some of the provisions of the existing Subdivision Ordinance of the County of Chowan. All provisions of the Subdivision Ordinance of Chowan County enacted previously, which are not re-enacted herein, are repealed on and after the date of adoption of these regulations.

3.2 All or any subdivisions with final plat approval granted by the provisions of the previous Subdivision Ordinance of the County of Chowan will not be affected by the provisions of this ordinance. All or any subdivisions with preliminary plat approval granted by the provision of the previous Subdivision Ordinance will conform to the Subdivision Ordinance in effect at the time of preliminary plat approval. All or any subdivisions without preliminary plat approval on and after the date of adoption of these regulations shall be required to abide by all provisions of this Subdivision Ordinance.

### **SECTION 4.0 - PURPOSE:**

The purpose of these regulations is to guide the subdivision of land within the limits of Chowan County in order to promote the public health, safety, and general welfare of the community. They are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to ensure proper legal description and proper monument placements of subdivided land; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land and avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewerage, parks, schools, playgrounds, and other public requirements; and to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

### **SECTION 5.0 - JURISDICTION:**

On and after April 27, 1971, these regulations, as amended, shall govern each and every subdivision of land lying within the County and outside the subdivision regulation jurisdiction of any municipality, and territory within the subdivision regulation jurisdiction of any municipality whose governing body, by resolution, agrees to such regulation.

### **SECTION 6.0 - SERVICE AND PERMIT:**

No street shall be recommended for acceptance for maintenance by the North Carolina Department of Transportation nor shall any permit be issued by an administrative agent of Chowan County for the construction of any building or other improvement requiring a permit or upon any land concerning which a plat is required to be approved, unless and until the requirements set forth in this ordinance have been complied with and same approved by the Planning Board.

**SECTION 7.0 - OTHER INSTRUMENTS OF TRANSFER:**

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from these regulations. A plat shall be prepared, approved, and recorded pursuant to these regulations whenever a subdivision of land takes place.

**SECTION 8.0 - TERMS OF APPROVAL:**

The approval of a plat pursuant to regulations adopted under this ordinance shall not be deemed to constitute or effect the acceptance by the County or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat.

**SECTION 9.0 – SUBDIVISION ADMINISTRATOR:**

The Edenton-Chowan County Director of Planning or the Director’s designee shall be designated as the Subdivision Administrator and shall be responsible for the administration and enforcement of the provisions of this Ordinance.

## ARTICLE II: DEFINITIONS AND INTERPRETATIONS

### SECTION 1.0 - DEFINITIONS:

For the purpose of this ordinance, the following terms have been defined:

- a) Access Easement: An easement which grants the right to cross property. [Access easements shall comply with the requirements of Article VI, Section 1.0, \(e\)](#)
- b) Address: The official house, building, or structure number assigned by the County for a specific lot, building or portion thereof.
- c) Alley: A right-of-way intended primarily for motor vehicles, which cuts across a block in order to improve access to adjacent streets or properties.
- d) Areas of Environmental Concern (AEC's): Areas specifically defined in subchapter 7H of Chapter 15 of the North Carolina Administrative Code. These defined areas which are located within the jurisdiction of Chowan County include: Coastal Wetlands; Estuarine Waters; Estuarine Shorelines, and Public Trust Areas. If an AEC is involved in any permitted activity covered by this Ordinance, then additional permits may be required by the State of North Carolina; the four major AEC's are further briefly defined as follows (See Section 3.24 of the Chowan County Zoning Ordinance): (1) Coastal Wetlands: Any salt marsh or other marsh subject to regular or occasional flooding by tides; (2) Estuarine Waters: All waters of the Atlantic Ocean, and associated bays, sounds, rivers and tributaries, within the boundaries of North Carolina; (3) Estuarine Shorelines: Non-ocean shorelines especially vulnerable to erosion, flooding, or other adverse effects of wind or water, and which are connected to the estuary, and (4) Public Trust Areas: All public navigable waters, and lands thereunder subject to measurable lunar tides.
- e) Block: A parcel of land, which is entirely surrounded by public streets, highways, railroad rights-of-way, parks or green strips, rural land, or drainage channels, or a combination thereof.
- f) Buffer Strip or Yard: A separate area of land, owned by the developer, subdivider, or a property owners' association that shall not be developed and is designed and maintained, in accordance with the provisions of this Ordinance, to separate land uses deemed incompatible.
- g) Building Setback Line: A line parallel to the property lines in front of which no structure, excluding fences and driveways, shall be built.
- h) CAMA: The Coastal Area Management Act of 1974, as amended.
- i) Cluster Development: The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts.
- j) Community Water Supply: A public water supply that serves a community that is not an incorporated municipality. This includes unincorporated communities, subdivisions, mobile home parks, and apartment complexes having five or more connections. Such systems must meet the standards of the Division of Health Services and the Division of Environmental Management.
- k) Condominium: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are

vested in the unit owners. Condominium developments are subject to the North Carolina Unit Ownership Act (NCGS Chapter 47A) or the North Carolina Condominium Act (NCGS Chapter 47C).

- l) County Board (or Board of County Commissioners): Refers to the Chowan County Board of County Commissioners.
- m) County Engineer: A Professional Engineer, registered in the State of North Carolina, employed by the County Board of Commissioners to provide engineering services to Chowan County.
- n) Declaration of Unit Ownership: A duly recorded instrument by which property is submitted to the provisions of NCGS 47A or NCGS 47C for the purpose of creating a condominium.
- o) Dedication: A gift, by the owner, of a right to use land for stated purposes. A dedication shall be made with a written instrument and is completed with a written acceptance.
- p) Developer or Subdivider: Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.
- q) Double or Reverse Frontage Lot: A continuous (through) lot of the same depth as the width of a block and which is accessible from both of the streets upon which it fronts.
- r) Driveway: A private travel way which provides access from a public or private road, road or easement.
- s) Dwelling Unit: One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided therein.
- t) Dwelling Unit, Attached: Any dwelling unit that shares one or more common walls with other similar units.
- u) Dwelling Unit, Detached: Any dwelling unit that is freestanding and shares no common walls with any other dwelling unit.
- v) Easement: A grant by the property owner for use, by the public, a corporation, or person, of a strip of land for specific purposes.
- w) Financial Guarantee: Any form of security, including a cash deposit, collateral, property, or instrument of credit, in an amount and form approved by Chowan County for use in place of actual construction of required improvements. Also referred to as 'surety.
- x) Group Development: A group of two or more principal structures built on a single lot, tract, or parcel of land and designed for occupancy by separate families, firms, businesses, or other enterprises.
- y) Homeowners' (or Property Owners') Association: A private, nonprofit corporation of homeowners formally constituted for the purpose of owning, operating, and maintaining common properties. Also known as a Declaration of Unit Ownership in a condominium development.
- z) Lot: A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development, or both. The word "lot" also includes the words "plot" and "parcel."

- i. Lot Area: The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the road right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the road.
- ii. Lot, Corner: A lot abutting two or more streets at a street intersection.
- iii. Lot Coverage: The portion of a lot covered by building(s) and/or structure(s).
- iv. Lot, Double Frontage (Through Lot): An interior lot having frontage on two (2) non-intersecting streets.
- v. Lot, Flag: [A lot having frontage on a street via a narrow strip of land or "pole" having a minimum width of twenty \(20\) feet at the street. Flag lots shall comply with the requirements of Article V, Section 2.0, \(o\).](#)
- vi. Lot, Frontage: The distance for which a lot abuts on a street.
- vii. Lot, Line: Any boundary or boundary line which provides the legally defined limits of a lot, parcel, tract, or plot.
- viii. Lot Line, Front: In the case of an interior lot, a line separating the lot from the street right-of-way. In the case of a corner lot, the narrower of the two lot lines adjoining a street right-of-way. If said lot lines for a corner lot are of the same length, then both lot lines shall be considered a Front Lot Line for purposes of this Ordinance.
- ix. Lot Line, Rear: A lot line which is opposite and most distant from, the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.
- x. Lot of Record: A lot which is a part of a subdivision, a plat of which has been recorded in the Office of the Registrar of Deeds of Chowan County, prior to the adoption of this ordinance or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.
- xi. Lot, Single Tier: A lot which backs upon a limited access highway, a railroad, a physical barrier, or a nonresidential use and to which vehicular access from the rear is usually prohibited.
- xii. Lot, Width: The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.
- aa) Official Map or Plans: Any maps, plans, charts, or texts officially adopted by the County Board of Commissioners or prepared by an authoritative state or federal agency for the development of Chowan County.
- bb) Open Space: An area of land and/or water that is generally unimproved and is reserved for recreation, resource protection, amenity, or buffer purposes.

- cc) Pedestrian Way: A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent roads and properties.
- dd) Planned Unit Development: A Planned Unit Development is a comprehensively planned project which permits flexibility in building location, mixtures of building types and land uses, recreational areas and open spaces, and preservation of significant natural features.
- ee) Planning Board: The Chowan County Planning Board, or a committee formed by the Planning Board under its Rules of Procedure for the purpose of plat review as prescribed by this ordinance.
- ff) Planning Director: The administrative head of the Edenton-Chowan County Planning and Inspections Department.
- gg) Planning and Inspections Department: The Edenton-Chowan County Planning and Inspections Department.
- hh) Plat: Includes the map, plan, plat, re-plat, re-plot; a map or plan of a tract or parcel of land which is to be, or which has been, subdivided.
- ii) Plat, Preliminary: A map of proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.
- jj) Plat, Final: A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas, and other dimensions of land required by this ordinance.
- kk) Perennial Waters: Waters as identified on recent USGS topographic maps that are free flowing for the entire year.
- ll) Public Street or Road: A road right-of-way dedicated for public use and maintained or intended to be maintained by the North Carolina Department of Transportation.
- mm) Reservation: A reservation of land not involving the transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.
- nn) Review Officer: The Lands Record Manager (or designee) designated by the Board of County Commissioners to certify that maps and plats comply with all statutory requirements for recording.
- oo) Sketch Plan: A rough sketch of a proposed subdivision or site, showing streets, lots, and any other information of sufficient accuracy to be used for discussion of the street system and the proposed development pattern.
- pp) Special Flood Hazard Area: The land in the floodplain subject to a one percent or greater chance of being flooded in any given year.
- qq) Streets: A right-of-way for vehicular traffic which is dedicated to public or private use and constructed to acceptable Chowan County standards. Streets shall be classified as one of the following:

- a. Arterial: A thoroughfare connecting widely separated areas and designed to carry a large volume of traffic around or through the County, which may be fast, heavy, or both. Arterials are sometimes referred to as "major thoroughfares," "freeways," etc., and are usually numbered state or federal highways.
  - b. Major County Roads: These facilities interconnect economic, population, and recreational centers within the County and adjacent counties and carry traffic to the primary highway system. They are generally continuous and serve areas of considerable size.
  - c. Minor County Roads: These facilities serve sub-areas of the County and perform the function of collecting traffic from the local County roads and carrying it to the major road and primary highway systems.
  - d. City and Town Thoroughfares: The urban thoroughfare system permits traffic to move around, within, and through the urban area with directness and ease. Thoroughfares within the urban area are classified as either major thoroughfares or minor thoroughfares, according to the function which they are performing. Major thoroughfares serve the urban area as a whole and include radials, cross-town thoroughfares, circumferential or loop thoroughfares, and bypasses. Minor thoroughfares serve sub-areas of the urban community and collect traffic from local access streets and carry it to the major thoroughfare system.
  - e. Local County Roads: These facilities perform the functions of serving abutting property and collecting traffic from subdivision streets and carrying it to the County thoroughfare system.
  - f. Frontage Road: A street that is parallel to a full or partial access controlled street facility and functions to provide controlled access to adjacent land.
  - g. Cul-de-sacs: These are roads no longer than 600 feet or no less than 100 feet excluding the turnaround, open at one end only, with a special provision for turning around at the other end, which is permanently closed. They have a "bulb" end design, with a specific turning radii and a limited number of lots.
  - h. Deed End Streets: These are streets no longer than 600 feet in length or no shorter than 100 feet in length, open at one end only, without special provisions for turning around and have no collector characteristics.
  - i. Hammer head end of street turn around: These are on private roads no longer than 400 feet in length, open with one end only to a public road, with a special ninety degree "T" end design with specific dimensions to permit vehicles to turn around and exit the dead end.
- rr) Structure: Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground, excluding fences and driveways.
- ss) Subdivider: Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.
- tt) Subdivision: A "subdivision" shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets, provided, however, that the following shall not be included within this definition or be subject to the regulations prescribed by this ordinance:
- a. The combination or re-combination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or

exceed the standards of the County, as shown by the regulations prescribed by this ordinance.

- b. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
  - c. The public acquisition by purchase of strips of land for the widening or opening of streets.
  - d. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the County, as shown by the regulations contained in this ordinance.
  - e. The gift of a parent of a single lot to his or her child or each of his or her children where no new road is involved, provided: (1) that each and every such lot shall have dedicated right-of-way access to the State maintained road serving the principal parcel or direct access to an approved private road as defined by this ordinance and (2) Chowan County's interpretation is that a parent may convey each of that parent's children a single lot. Any subsequent conveyance to the same child must meet the provisions of this Ordinance.
  - f. The division of land by will. (*Note: Although the division of land by will is exempt from the requirements of this Ordinance, the resultant lots may not be eligible for a compliance permit/building permit if the lots do not meet the minimum lot size or building setback requirements of the Zoning Ordinance or septic tank regulations.*)
- uu) Subdivision Administrator: The person, persons, or office authorized in Article I, Section 9.0 to administer and enforce the provisions of this Ordinance.
- vv) Subdivision, Minor: A minor subdivision is a subdivision which:
- a. involves not more than four lots fronting on a State maintained road;
  - b. does not constitute the enlargement of a previously platted subdivision to more than four lots;
  - c. does not involve any new street or prospectively require any new street for access to interior property;
  - d. does not require extension of public sewage or water lines or the creation of new drainage easements;
  - e. does not adversely affect the development of the remainder of the parcel or of adjoining property;
  - f. creates no new or residual parcels not conforming to the requirements of these regulations and related controls.
- ww) Subdivision, Major: All subdivisions not classified as a minor subdivision.
- xx) Surface Drainage System: A drainage system, consisting of culverts, open ditches, or other appropriate devices, designed to facilitate the proper removal or retention of surface water from parcels or lots.
- yy) Traditional Neighborhood Development: A Traditional Neighborhood Development (TND) is a land development technique that encourages mixed-use, pedestrian-oriented communities and promotes the diversification and integration of land uses. A TND is a human scale, walkable community composed of a variety of housing types and densities and a mixed use core of shopping, offices, public, and civic uses.

- zz) Waiver: Official permission granted by the Chowan County Board of County Commissioners to depart from standards and requirements of this Ordinance in accordance with the provisions of Article III, Section 7.0.
- xx) 100-Year Flood Area: The area of 100 years flood inundation as shown on Chowan County's Official Flood Insurance Maps, as amended.

**SECTION 2.0: TENSE AND NUMBER:**

- a) The present tense includes the future tense and the future tense includes the present tense.
- b) The singular number includes the plural number and the plural number includes the singular number.

**SECTION 3.0: WORD INTERPRETATION:**

For the purpose of this ordinance, certain words shall be interpreted as follows:

- a) The word 'may' is permissive.
- b) The words 'shall' and 'will' are mandatory.
- c) The word 'building' includes the word 'structure.'
- d) The word 'County' shall mean the 'County of Chowan,' a political subdivision of the State of North Carolina.
- e) The words 'Board of County Commissioners' or 'County Commissioners' shall mean the 'Chowan County Board of County Commissioners.'
- f) The words 'Registrar of Deeds' shall mean the 'Recorder of Deeds for Chowan County, North Carolina.'
- g) The words 'ordinance' and 'regulations' shall mean the 'Subdivision Ordinance of the County of Chowan, North Carolina.'
- h) The word 'street' includes the words 'road' and 'highway.'

## **ARTICLE III: LEGAL PROVISIONS**

### **SECTION 1.0 - DUTY OF SUBDIVIDER AND/OR AUTHORIZED AGENT:**

A plat must be prepared, approved, and recorded whenever the subdivision of land takes place, as defined in this ordinance. The owner of land shown on a subdivision plat submitted for recording, or his/her authorized agent, shall sign a statement on the plat stating whether any land shown thereon is within the subdivision regulation jurisdiction of Chowan County.

### **SECTION 2.0 - DUTY OF REGISTRAR OF DEEDS:**

Chowan County shall file a copy of this ordinance with the Registrar of Deeds of Chowan County. The Registrar of Deeds shall not thereafter file or record a plat of subdivision located within the platting jurisdiction of Chowan County without the approval of the legislative body or its authorized agent as required in this ordinance. Neither shall the Registrar of Deeds file or record a deed or other instrument of conveyance regarding land located in a subdivision within the platting jurisdiction of Chowan County, as defined herein, unless a plat of the subdivision has been approved by the legislative body of Chowan County as required in this ordinance. The filing or recording of a plat of a subdivision without the approval of the legislative body or its authorized agent, as required by this ordinance, shall be null and void.

### **SECTION 3.0 - DUTY OF CLERK OF COURT:**

The Clerk of Superior Court of Chowan County shall not order or direct the recording of a plat where such recording would be in conflict with this section.

### **SECTION 4.0 – DUTY OF REVIEW OFFICER:**

Prior to recordation by the Register of Deeds, the Chowan County Review Officer shall certify the map or plat meets statutory requirements.

### **SECTION 5.0 - SEPARABILITY:**

Should any section or provision of these regulations be, for any reason, held void or invalid by the courts, it shall not affect the validity of any other section or provision hereof which is not itself held void or invalid.

Whenever the provision of any other law, ordinance, or regulation imposes higher standards than are required by the provisions of this ordinance, the provisions of such law shall govern.

### **SECTION 6.0 - COMPLIANCE WITH OFFICIAL PLANS:**

Wherever a tract to be subdivided embraces any part of a road or thoroughfare designed in the official maps and plans for Chowan County, such part of that proposed public way shall be platted and dedicated by the subdivider in the location and dimensions specified.

### **SECTION 7.0 - EXCEPTIONS AND WAIVERS:**

Where topography or other existing physical conditions are such that compliance with all of the requirements of this ordinance would cause an unusual and unnecessary hardship on the subdivider above, the Planning Board may modify or waive the minimum requirements set forth herein, provided that such waiver will not have the effect of nullifying the interest and purpose of these regulations.

Developers are encouraged to apply for a waiver to preserve areas of particular aesthetic value. Where a waiver is accepted, the reasons for such shall be noted in the minutes of the Planning Board and Board of Commissioners.

a) The standards and requirements of these regulations may be waived by the Board of County Commissioners under one of the following circumstances:

1. Physical Hardship

Where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of these regulations would cause unusual and unnecessary hardship on the subdivider.

2. Equal or Better Performance

Where, in the opinion of the Board of Commissioners, a waiver will result in equal or better performance in furtherance of the purposes of these regulations.

3. Unintentional Error

Where through an unintentional error by the applicant, his agent, or the reviewing County staff or a Technical Review Committee, there is a minor violation of a standard delineated in of these regulations and where such violation is not prejudicial to the value or development potential of the subdivision or adjoining properties.

b) In granting waivers, the Planning Board may recommend and Board of County Commissioners may require such conditions as will secure, insofar as practicable, the purposes of the standards or requirements waived.

c) The process for review and approval of waivers shall comply with the following:

1. Submittal of a Written Request

The subdivider shall submit a written request to the Subdivision Administrator identifying the specific standard(s) that are proposed to be waived. The request shall include a reference to the specific section of this Ordinance that is proposed to be waived and shall provide documentation justifying the need for a waiver.

2. Waiver Request Review by the Planning Board

The subdivider's request shall be forwarded to the Planning Board for its review and recommendation to the Board of County Commissioners. Any modifications thus recommended are required to be entered in writing in the minutes of the Planning Board and the reasons on which the departure was justified set forth. The Planning Board shall present the request to the Board of Commissioners within 60 days of its first consideration.

3. Board of County Commissioners Action on Waiver Request

The Board of County Commissioners shall review the requested waiver; the recommendation, if any, of the Planning Board; and the grounds for waivers as delineated in subsection a) above. The Board of Commissioners shall take action

within a reasonable time. The Board of Commissioners may require such conditions as will, in its judgment, preserve the spirit and intent of these regulations. These conditions may include, but shall not be limited to: surety, performance, or maintenance bonds, or affidavits, covenants, or other legal instruments as will assure conformity to and achievement of the plan. If the waiver request is approved, the Board of County Commissioners shall provide the subdivider with written approval which specifies the justification for the waiver and delineates any conditions placed on the approval. If the waiver request is not approved, the Board of County Commissioners shall provide the subdivider with written notification stating that the request has been disapproved and specifying the reasons for denying the request.

#### **SECTION 8.0 – ENFORCEMENT OF ORDINANCE:**

Any person who, being the owner or agent of the owner of any land located within the platting jurisdiction of Chowan County, as defined herein, thereafter transfers or sells any such land as a subdivision, as defined herein, without such subdivision of land having been platted and approved under this ordinance and recorded in the Office of the Registrar of Deeds of Chowan County, shall be guilty of a misdemeanor as established by G.S. 153A-334. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties as the courts may exact. The County, through its attorney or other official designated by the County Board of Commissioners, may enjoin illegal subdivision, transfer, or sale of land by action for an injunction, and/or an Order of Abatement.

Pursuant to N.C. General Statute 153A-123, as amended from time to time, a violation of any part of this ordinance may result in civil penalties being assessed against the violator in lieu of criminal penalties. When civil penalties are involved in the County's discretion, the penalty will be assessed in an amount of one hundred (\$100.00) for a first time offence, three hundred (\$300.00) for a second offence, and five hundred dollars (\$500.00) for a third or subsequent offence per day for every day's violation, payable to the Clerk of the Board of the County Commissioners. A citation shall be prepared and issued by the Subdivision Ordinance Administrator and shall require payment within ten (10) working days of issuance. If the civil penalty is not paid within ten (10) working days of the issuance of the citation, then the County has the option of collecting the civil penalty by a civil action in the nature of debt in the General Court of Justice of North Carolina. Building permits required pursuant to NCGS 253A-357 shall be denied for lots that have been illegally subdivided. In addition to other remedies, Chowan County may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

As permitted by Statute, the County may use any of the listed penalties for violation of the ordinance on a non-exclusive basis.

#### **SECTION 9.0 - EFFECTIVE DATE:**

This ordinance shall take effect and shall supersede the Chowan County Subdivision Ordinance, as adopted April 5, 1971, and its revisions, October 1978, September 11, 1989, and July 11, 2002 and shall be in force from and after its adoption.

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Chairman, Chowan County Board of Commissioners

## **ARTICLE IV: PROCEDURES FOR PLAT APPROVAL**

GENERAL: No plat of a subdivision within the jurisdiction of the Chowan County shall be accepted for recordation by the Registrar of Deeds until and unless final approval has been given by the Chowan County Board of Commissioners, the Chowan County Planning Board, or the Chowan County Subdivision Administrator acting as the authorized agents of the Chowan County Board as set forth herein.

To obtain final plat approval, the subdivider shall generally follow the procedures contained herein. In accordance with the provisions of NCGS 153A-330, decisions on the approval or denial of preliminary and final subdivision plats may be made only on the basis of standards explicitly set forth in this Ordinance. Whenever this Ordinance includes criteria for a decision that requires the application of judgment on the part of the approval authority, those criteria must provide adequate guiding standards for the approval authority.

### **SECTION 1.0 - MINOR SUBDIVISIONS:**

The sketch design and preliminary plat approval procedure may be modified to allow for one-step final plat approval by the Subdivision Administrator where the proposed subdivision:

- a) involves not more than four (4) lots fronting on a State maintained road;
- b) does not constitute the enlargement of a previously platted subdivision to more than four (4) lots;
- c) does not involve any new street or prospectively require any new street for access to interior property;
- d) does not require extension of public sewage or water lines or the creation of new drainage easements;
- e) does not adversely affect the development of the remainder of the parcel or of adjoining property;
- f) creates no new or residual parcels not conforming to the requirements of these regulations and related controls;
- g) and where the proposed plat:
  1. has been approved by the following agencies where necessary:
    - i. the district highway engineer as to proposed streets, highways, and drainage systems,
    - ii. the County sanitarian as to proposed water and sewage systems,
    - iii. such other agencies and officials as the County Board of Commissioners may deem necessary or desirable, and
  2. meets final plat criteria as set forth in this ordinance (see Article IV, Section 2.4.1).

### **SECTION 2.0 - MAJOR SUBDIVISION REVIEW PROCEDURES:**

SECTION 2.1 - The provisions contained in this section of the subdivision ordinance shall apply to all subdivisions having five (5) lots or more and not otherwise meeting the criteria for "Minor Subdivisions," as described in Section 1.0 of this Article.

For major subdivisions containing 24 lots or less, the Planning Board shall review any submitted sketch plans and shall have the authority to review and decide upon requests for preliminary plat approval. Final plats conforming substantially to the approved preliminary plat shall be reviewed and decided upon by the Subdivision Administrator. If the submitted final plat deviates substantially from the overall design of the approved preliminary plat, the final plat shall be reviewed and decided upon by the Planning Board following the same review and approval procedures set forth in Section 2.3.

For major subdivisions containing 25 or more lots, the Planning Board shall review any submitted sketch plans, review and make recommendations to the Board of Commissioners concerning approval or disapproval of the preliminary plat. The Board of County Commissioners shall review and decide upon requests for the preliminary plat approval. Final plats conforming substantially to the approved preliminary plat shall be reviewed and decided upon by the Subdivision Administrator. If the submitted final plat deviates substantially from the overall design of the approved preliminary plat, the final plat shall be reviewed and decided upon by the Board of Commissioners following the same review and approval procedures set forth in Section 2.3.

SECTION 2.2 - SKETCH DESIGN PLAN - VOLUNTARY SUBMISSION: Prior to the filing of an application for approval of the preliminary plat, the subdivider is encouraged to submit to the Planning Board a sketch design plan of the proposed subdivision at a regular meeting of the Planning Board. At this meeting, the subdivider should discuss his thoughts and ideas pertaining to the new subdivision and also become familiar with the regulations affecting the land to be subdivided. This procedure does not require application or fee. Voluntary submission of a sketch plan shall not constitute an application for subdivision approval. Accordingly, any review or discussion by the Planning Board or staff regarding a voluntarily submitted sketch plan prior to the submission of a Preliminary Plat and application for subdivision approval shall not constitute any official government action nor establish any right or privilege. Preliminary plats and applications containing sketch plans reviewed by the Planning Board prior to January 19, 2005 may be submitted within 120 days following adoption of this amendment, and shall be considered for approval based on compliance with Chowan County subdivision ordinances and regulations in effect prior to January 19, 2005.

SECTION 2.2.1 - SKETCH DESIGN PLAN - REQUIRED CONTENTS: The sketch design plan will show:

- a) Streets
  1. Proposed pavement width
  2. Approximate rights-of-way
- b) Other rights-of-way and easements
- c) Lot lines (tentative arrangement)
- d) Sites, if any, for schools, churches, parks, beaches, etc.
- e) Site data
  1. Acreage in tract
  2. Approximate acreage in parks or other than residential use
  3. Approximate number of lots
- f) Sketch vicinity map showing relationship between subdivision and surrounding area

- g) Be of adequate scale
- h) Name and address of the owner and the subdivider
- i) Proposed name of subdivision

SECTION 2.3 - PRELIMINARY PLAT - REQUIRED PROCEDURES:

- a) The subdivider shall submit a subdivision application in the form of four (4) copies of the preliminary plat and any supplementary material to the Subdivision Administrator at least fifteen (15) days prior to the regularly scheduled Planning Board meeting, at which said plat is to be considered by the Planning Board.
- b) The Technical Review Committee shall check the preliminary plat against the design standards and plat requirements. The TRC is chaired by the Planning Director and is composed of a variety of agencies with interest in the proper subdivision and development of land in the County. The County Manager shall appoint membership from County agencies to serve on the TRC. The County Commissioners or County Manager may appoint or invite others deemed necessary. The District Highway Engineer, County School Superintendent, and local Coastal Area Management Act Permit Officer are to be invited to TRC meetings or otherwise serve to advise the TRC on matters related to their interests. It shall be the duty of the Planning Director to ensure that the TRC and other required agencies have an opportunity to review and make recommendations concerning the proposed subdivision plat before approval is given. The following agencies shall have an opportunity for review:
  - 1. The District Highway Engineer as to proposed streets, highways, and drainage systems.
  - 2. The County Health Director as to proposed water and sewerage systems.
  - 3. The County School Superintendent as to proposed school sites.
  - 4. The local Coastal Area Management Act Permit Officer for his determination as to whether the subdivision is located either within or outside of a North Carolina Coastal Area Management Act Area of Environmental Concern.
  - 5. Such other agencies and officials as the County Commissioners may deem necessary or desirable.
- c) The Technical Review Committee shall make recommendations to the Planning Board, including any recommendations received from other County and State agencies and officials reviewing the plat.
- d) The Planning Board shall review the preliminary plat.
- e) The Planning Board shall discuss with the subdivider changes deemed advisable, if any, and the kind and extent of improvements to be made by him.
- f) For subdivisions containing 24 lots or less, the Planning Board shall approve, approve conditionally, or disapprove the preliminary plat.
  - 1. Approval of the preliminary plat is authorization for the subdivider to proceed with the construction of the necessary improvements or guarantee their installation, as provided, in preparation for submission of the final plat.
  - 2. If approved conditionally, the conditions and reasons thereof shall be stated, and if necessary, the Planning Board may require the subdivider to submit a revised plat.

3. If the Planning Board should disapprove the preliminary plat, the reasons for such action shall be stated and recommendations made on the basis of which the proposed subdivision would be approved.
- g) For subdivisions containing 25 or more lots, the Planning Board shall review the preliminary plat and shall forward a recommendation to the Board of County Commissioners for the approval, conditional approval, or disapproval the preliminary plat. Failure on the part of the Planning Board to act within sixty (60) days after a complete preliminary plat is submitted shall be deemed recommended approval.
  - h) The Board of County Commissioners shall review the preliminary plat, the recommendation of the Planning Board, and any other reports or recommendations pertaining to the plat. Following its review, the Board of County Commissioners shall approve, approve conditionally, or disapprove the preliminary plat.
    1. Approval of the preliminary plat is authorization for the subdivider to proceed with the construction of the necessary improvements or guarantee their installation, as provided, in preparation for submission of the final plat.
    2. If approved conditionally, the conditions and reasons thereof shall be stated, and if necessary, the Board of County Commissioners may require the subdivider to submit a revised plat.
    3. If the Board of County Commissioners should disapprove the preliminary plat, the reasons for such action shall be stated and recommendations made on the basis of which the proposed subdivision would be approved.

SECTION 2.3.1 - PRELIMINARY PLAT - REQUIRED CONTENTS: The preliminary plat shall be at a scale of 1" = 100' or larger and will be drawn on sheets not larger than 18" x 24". The preliminary plat will show the following: (also, see Article VIII, Section 3.0.)

- a) The location of existing and platted property lines, streets, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts and drain pipes, water mains, City and County boundary lines (if adjoining), and any public utility easements on the land being subdivided and immediately adjoining lands.
- b) Name of proposed subdivision and boundaries of tract, shown with bearings and distances.
- c) Existing wooded areas, marshes, normal tidal variations, floodplains (where information is available), and any other conditions affecting the site.
- d) Names of adjoining property owners or other subdivisions, existing or proposed.
- e) Zoning classification, if any, both on the land to be subdivided and on adjoining land.
- f) Proposed streets, street names, rights-of-way roadway widths, and approximate grades.
- g) All streets and roads in the subdivision shall be designed as public or private. This designation shall not apply to an access way for an individual property owner, but shall apply to all streets and roads for three or more property owners, lots, building sites, or other divisions of land. The streets and roads offered for dedication to the public shall meet the requirements of State law for public streets. The streets and roads designated to be private shall meet the same State standards as those designated to be public. (See Article VIII, Section 4.0, for typical sections.)

- h) The plans for proposed utility layouts (sewer, water, gas, electricity) showing connections to existing systems or plans for individual water supply, sewage disposal, storm drainage, stormwater management and maintenance plans and required certifications, etc.
- i) All subdivisions shall have a water system connected to the system owned and operated by Chowan County unless service by the County water system is not available; this exception, due to the lack of available services, will be determined by the County Commissioners or their duly authorized representative. The preliminary subdivision plat shall be accompanied by a complete set of construction plans for the proposed system, prepared by a registered engineer, and approved by the engineer of the public water system and the appropriate State agencies. All water mains and easements shall be dedicated to the public. The subdivider shall be responsible for contacting the Chowan County Water Department and complying with the Department policies and regulations regarding subdivisions.
- j) Other proposed rights-of-way or easements; locations, widths, and purposes.
- k) Proposed lot lines, lot and block numbers (numbered consecutively), and approximate dimensions.
- l) Proposed minimum building setback lines with special provision for waterfront lots.
- m) Contour map with intervals of two foot or less when required by the Planning Board.
- n) Location of proposed parks, school sites, or other public open spaces, if any.
- o) Title, date, north point, and graphic scale.
- p) Names and addresses of all owners, surveyors, engineers, and land planners.
- q) Site data:
  - 1. Acreage in total tract
  - 2. Acreage in parks, access sites, or other additional land usage
  - 3. Total number of lots
  - 4. Number and location of solid waste container sites
- r) Sketch vicinity map showing relationship between subdivision and surrounding area.
- s) A statement, as follows, signed by the local permit officer.

*'This subdivision conforms to the standards of the North Carolina Coastal Area Management Act of 1974 and is/is not located within any Area of Environmental Concern.'*

SECTION 2.3.2 – EXPIRATION OF PRELIMINARY PLAT APPROVAL: Preliminary plat approval shall be valid for a period of 12 months from the date of approval of the plat by the Planning Board or Board of County Commissioners unless an extension of time is applied for and granted by the applicable approval board or unless a longer time period is established under applicable vested rights provisions. Preliminary plats whose approval has elapsed or which have been approved more than 12 months previous to the adoption of this ordinance and for which no final plat has been approved shall be resubmitted in

accordance with the provisions of this Section. Resubmitted plats shall conform to the Ordinance requirements in effect at the time of plat resubmittal.

SECTION 2.3.3 – MODIFICATIONS TO APPROVED PRELIMINARY PLATS: Modifications to approved preliminary plats shall comply with the following provisions:

- a) Insignificant deviations from the approved preliminary plats approved by the applicable approval board (the Planning Board or Board of County Commissioners) are permissible and the Subdivision Administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- b) Minor design modifications or changes in approved preliminary plats are permissible with the approval of the applicable approval board. Such permission may be obtained without a formal application, hearing, or payment of any additional fee. For purposes of this Section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- c) All other requests for changes in approved preliminary plats will be processed as a modification to the original approved plat. If such requests are to be acted upon by the applicable approval board, new conditions may be imposed only on the specific site or area requested to be modified, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously approved plat.
- d) The Subdivision Administrator shall determine whether amendments to and modifications of applications fall within the categories set forth above in subsections a), b), and c).
- e) A subdivider requesting approval of changes shall submit a written request for such approval to the Subdivision Administrator, which request shall identify the changes. Approval of all changes must be given in writing.

SECTION 2.4 - FINAL PLAT - REQUIRED PROCEDURES: The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time; such portion shall conform to all requirements of this ordinance.

- a) Guarantee of Improvements - No final plat shall be approved unless and until the subdivider shall have installed in that area represented on the final plat, all improvements required by this ordinance or shall have guaranteed their installation through use of a performance guarantee.
- b) Performance Guarantee - In lieu of prior construction of the improvements required by this ordinance, the County Commissioners, or their duly authorized representative, may, for the purpose of approving a final plat, accept a guarantee from the subdivider that such improvements will be carried out according to Chowan County specification at the subdivider's expense. Such guarantee may be in the form of:
  - 1) A surety bond made by a surety company licensed to do business in North Carolina;
  - 2) Certified check drawn in favor of Chowan County;
  - 3) Cash deposited in an escrow account with Chowan County;
  - 4) A certified irrevocable line of credit from a properly insured financial institution; or
  - 5) Any other method deemed appropriate by the County Commissioners.
- c) Amount of Guarantee - Such guarantee shall be in an amount of not less than 150% of the estimated cost of the required improvements. The County Commissioners or a duly authorized representative of the Board of County Commissioners shall make determination as to the appropriate method and

amount of guarantee. Performance guarantees shall run for a period of one year and may be renewed once for a period of one year upon written approval from the County Commissioners or their representative. If, at the end of the determined time, the improvements have not been made, the County shall be paid the determined amount and the interest that has accrued since the time of plat approval. When the improvements have been made as specified in this ordinance and if cash has been deposited with the County, the amount of guarantee and the interest accrued is to be paid to the subdivider.

- d) Maintenance Guarantee - The Clerk to the Board of Commissioners shall secure from all subdividers a certification in recordable form in which said subdivider shall agree to maintain the required improvements of this ordinance until such time as:
  - 1) The streets of the subdivision are accepted by the State Division of Highways for maintenance.
  - 2) The utilities and other improvements are accepted by the County Commissioners for maintenance, or
  - 3) The required improvements of this ordinance are accepted for maintenance by a responsible property owners' association.
  
- e) Reserved.
  
- f) Upon the installation of the improvements shown in the approved preliminary plat (or a suitable guarantee for their installation) for the whole or that part of the subdivision to be developed, the applicant shall submit a final plat of the area.
  
- g) On application for final plat approval, the subdivider shall pay a fee to Chowan County.
  
- h) Final plats shall be presented on pages no larger than 18" x 24" for filing at the office of the Registrar of Deeds. More than one page may be presented, clearly marked with section lines. A scale of one inch equals 100 feet shall be used for final plat drawings.
  
- i) The subdivider shall submit five (5) copies of the final plat to the Subdivision Administrator within twelve (12) months after approval of the preliminary plat; otherwise, such approval shall become null and void unless an extension of time is applied for and granted by the applicable approval board.
  
- j) Reserved.
  
- k) The final plat shall be reviewed by the Subdivision Administrator, with the advice and assistance of the Technical Review Board, for compliance with the approved preliminary plan. The Subdivision Administrator may appoint an engineer to check the final plat against the subdivision's actual layout for correctness, charging the costs to the subdivider if the plat is found to be seriously in error. The Subdivision Administrator shall take expeditious action on a final plat. If the Subdivision Administrator fails to act within 30 days after the final plat is submitted, the subdivider may request that the final plat be reviewed by the Board of County Commissioners for final plat approval according to the same review and approval procedures set forth in Section 2.3 for preliminary plats. The Subdivision Administrator may at any time, however, refer an application for final plat approval to the Board of County Commissioners.
  - 1) If the final plat is in compliance with the ordinance and any modifications to the approved preliminary plat have been approved in accordance with the provisions of Section 2.33, the Subdivision Administrator shall approve the plat. When the final plat is approved by the Subdivision Administrator, a signed written certification to this effect shall be entered on the face of the plat in accordance with the requirements of Appendix A, Section 1.0, i).

- 2) If the final plat is not in compliance with this ordinance or any modifications to the approved preliminary plat have not been approved in accordance with the provisions of Section 2.33, the subdivider shall be given an opportunity to submit a revised final plat. If a revised final plat is not submitted, the Subdivision Administrator shall disapprove the final plat and shall provide the subdivider with a written statement of the reasons for the disapproval and reference shall be made to the specific section(s) of this Subdivision Ordinance with which the plat does not comply. .
- 3) If a final plat is disapproved by the Subdivision Administrator, the applicant may appeal the decision by requesting that the final plat be scheduled for review by the Board of County Commissioners according to the same review\_and approval procedures set forth in Section 2.3 for preliminary plats.

l) Approval of the final plat is authorization for the subdivider to file the plat with the Registrar of Deeds.

m) Two copies shall be returned to the subdivider; one of these (on 18" x 24" format) to go to the Registrar of Deeds and the other retained for the permanent files of the Planning and Inspections Department.

n) No final plat shall be approved until all required improvements are installed or their installation guaranteed as provided in this ordinance; the inspection fee has been paid; and the certificates required by this ordinance, to appear on the final plat, have been properly filled out and signed.

SECTION 2.4.1 FINAL PLAT - REQUIRED CONTENTS: The final plat shall be at the same scale and shall conform substantially to the preliminary plat, as approved (see Article IV, Section 2.3.1), and shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conform to all requirements of these regulations. The final plat drawn in accordance with G.S. 47-30 will show: (also, see Article VIII, Section 3.0.)

1. The lines of all streets and roads.
2. Lot lines and lot numbers.
3. Minimum building setback lines.
4. Reservations, easements, alleys, and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.
5. Sufficient data to determine readily and reproduce on the ground, the location, bearing, and length of every street line, lot line, boundary line, block line, and building line, whether curved or straight, and including true north point. This should include the radius, center angle, and tangent distance for the center line of curved streets and curved property lines that are not the boundary of curved streets.
6. All dimensions should be to the nearest one-tenth of a foot and angles to the nearest minute.
7. Accurate location and description of all monuments and stakes.
8. The proposed utility system:
  - (a) Water
  - (b) Gas
  - (c) Sewers
  - (d) Storm drainage

9. The names and locations of adjoining subdivision, and streets, and the location and ownership of adjoining unsubdivided property.

10. Title, date, name, and location of subdivision, graphic scale, and true north point.

11. Name of owner, surveyor, and land planner.

12. Sketch vicinity map showing relationship between subdivision and surrounding area.

13. All of the certificates shown in Article VIII, Section 1.0, of this ordinance shall be rubber-stamped or otherwise shown on the final plat.

14. The boundaries of Special Flood Hazard Areas.

### **SECTION 3.0 – RECORDATION OF APPROVED FINAL PLATS:**

a) Approval of a final plat is contingent upon the plat being recorded in the Office of the Register of Deeds within 30 days after the approval date of the final plat. Failure to record the approved plat within the specified 30-day period shall render the plat null and void.

b) Dedication and Acceptance

iv. Rights-of-way and Easements. The approval and recordation of a final plat may constitute an offer to dedicate but does not constitute actual dedication to and acceptance for maintenance responsibility by Chowan County or the public of any public road, alley, or utility or drainage easement shown on such plat. Improvements within such rights-of-way or easements, such as utility lines, road paving, drainage facilities, or sidewalks may, however, be accepted for maintenance by the North Carolina Department of Transportation or by the private utility provider upon compliance with applicable NCDOT and private utility provider guidelines and standards.

v. Open Space. Land designed as public open space on a final plat shall be considered to be offered for dedication until such offer is officially accepted by the County. The offer may be accepted by the County through:

(a) Express action by the Board of County Commissioners of Chowan County;

(b) Express action by an administrative officer designated by the Board of County Commissioners of Chowan County; or

(c) Conveyance of fee simple marketable title (unencumbered financially and environmentally) of the property to Chowan County at the time of final plat recordation.

Until such dedication has been accepted, land so offered may be used for open space purposes by the owner or by the owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.

The developer shall be responsible for the maintenance of all facilities and improvements until an offer of dedication is accepted.

- c) Permits and Certificates of Occupancy. Unless otherwise provided in this Ordinance, upon recordation of the final plat, the applicant shall be eligible to apply for building permits and any other permits required by the County. No certificates of occupancy shall be issued until all improvements are complete and approved by the County and the applicable utility provider.

## ARTICLE V: DESIGN STANDARDS

Land which the Planning Board has determined, either through its own investigations or the investigations of other public agencies, to be unsuitable for development because of flooding, poor drainage, steep slopes, poor soil conditions and other such physical features which may endanger health, life, or property or necessitate the excessive expenditure of public funds for the provision and/or maintenance of public services shall not be approved for subdivision unless methods are formulated by the developer for mitigating the problems created by the subdivision of such land.

All subdivisions located in flood hazard areas shall comply with the requirements of Section 7.02, Flood Hazard Overlay District Requirements of the Chowan County Zoning Ordinance. Required public utilities and facilities in all subdivisions shall be installed so as to minimize flood damage.

All public and private streets in subdivisions shall be paved and be designed in compliance with the current *Subdivision Roads Minimum Construction Standards*, as published by the Division of Highways, North Carolina Department of Transportation. Other minimum requirements for all new subdivisions are listed below:

### SECTION 1.0 - STREETS:

- a) In any new subdivision, the street layout shall conform to the arrangement, width, and location indicated on any official plans or maps for Chowan County. In areas for which such plans have not been completed, the streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets.
- b) The proposed street layout shall be made according to good land planning practice for the type of development proposed, and shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of principal streets in surrounding areas and provide reasonable means or ingress and egress for surrounding acreage tracts.

Where, upon the recommendation of the Planning Board, it is desirable to provide for street access to adjoining property, proposed streets shall be extended, dedicated, and, where appropriate, constructed to the boundary of such property. It is the intention of this subsection to promote the orderly development of a local street system that provides interconnection between developed or developing properties.

Factors that shall be evaluated when considering requiring the extension of streets or street rights-of-way to adjoining property include (i) the development potential of the adjoining land; (ii) the geographical and man-made characteristics of the adjoining property, and (iii) the existing and proposed local street system and traffic flow of the entire area surrounding the subdivided tract and adjoining properties.

Generally, 'stub streets' shall be required (i) where the zoning and/or land use on the adjoining property are compatible with the proposed subdivision, (ii) where there are no natural or man-made barriers that make the street extension impracticable, (iii) where the street extension will result in desirable traffic flows and patterns and where inappropriate levels of through traffic are avoided, and (iv) where the street extension will promote the overall orderly development of the area. All stub streets shall be



- j) Street names for all subdivision plats shall be subject to approval of the Planning Board. New street names shall not duplicate or be similar to existing street names and existing street names shall be used for proposed streets which are obviously in alignment with the existing street.
- k) The developer shall clearly designate on both the preliminary and final plats whether the proposed subdivision streets are to be private or public, i.e., to be dedicated for maintenance by the State.
- l) Private streets shall comply with the following:
  - a. Where Permitted. Private streets shall be permitted only in developments with Property Owners' Associations.
  - b. Minimum Design and Construction. The minimum design standards, including paving, for all private streets will be equivalent to the minimum standards and specifications of the North Carolina Department of Transportation (NCDOT) for public subdivision roads. Certification from a registered, professional engineer that private streets have been constructed in accordance with minimum NCDOT standards and specifications shall be provided to the Subdivision Administrator prior to final plat approval or, in the case where an improvements guarantee has been posted, prior to the release of the bond.
  - c. Property Owners' Associations Required. A Property Owners' Association, established in accordance with the provisions of Article VII, Section 6.0, is required to own and maintain all private streets allowed under this Ordinance. All private streets will be indicated as such on the subdivision plat.
  - d. Private Through Streets. No through street in a residential area connecting two public streets can be designated as a private street, unless specifically approved by the Planning Board.
  - e. Connections to Public Streets. All private streets, connecting with public streets, require an approved driveway application from the NCDOT.
  - f. Sidewalks. Where sidewalks are proposed adjacent to private streets, they shall be a least four feet in width.
  - g. Disclosure Statement. A disclosure statement in accordance with NCGS § 136-102.6 shall be recorded simultaneously with the subdivision plat and referenced on the final plat. The disclosure statement must contain the provision(s) for construction and/or maintenance of the private street (see Article VIII, Section 1.0).
  - h. Utility and Service Access Easements. When required by the County, necessary utility and service access easements (including designation of fire lanes when required) shall be dedicated over private streets for utility maintenance purposes, sanitation collection, and law enforcement and fire services.

**SECTION 2.0 - LOTS:**

Lot sizes, shapes, and locations shall be made with due regard to topographic conditions, contemplated use, and the surrounding area. Land subject to flooding, except for compliance with Section 7.02 of the Chowan County Zoning Ordinance, and land deemed by the Planning Board to be uninhabitable for other reasons shall not be platted for residential occupancy nor for such other uses as may increase danger to

health, life, or property, or aggravate the flood hazard; but such land may be set aside for such uses as will not be endangered by periodic or occasional inundation, or will not produce unsatisfactory living conditions.

- a) Every lot shall front or abut on a public or approved private street [except as provided herein](#). If re-subdivision of an existing lot is permitted, then each interior or rear lot must be provided with a dedicated right-of-way to the State-maintained or private road serving the area.
- b) Every lot shall have sufficient area, dimensions, and street access to permit a principal building to be erected thereon in compliance with all zoning district and other zoning dimensional requirements of the Chowan County Zoning Ordinance. Lots not served by a public water system or lots not served by a public sewer system shall comply with the minimum specifications and standards of the County Health Department.
- c) Where public water and sewer facilities are not available and individual water supplies or individual sewage disposal systems are planned, the subdivider, at his own expense, shall have the site investigated by the County Health Department to determine whether or not such individual facilities are feasible and shall present proof to the Planning Board that appropriate soil tests have been conducted and each lot in the subdivision not served by public water or sewage disposal systems has been approved by the County Health Department for individual water supplies and/or sewage disposal systems. The site investigation for sewage disposal shall include sufficient number of test holes of sufficient depth to determine the absorption capacity of the soil and the locations of the groundwater table, and of rock formations and other impervious strata. (The number of tests required and the depth of test holes shall be determined by the County sanitarian.)
- d) Water supply and sewerage facilities shall comply with applicable State and County Public Health laws and regulations, in all aspects not specifically mentioned in this document.
- e) Where individual sewage disposal systems are planned, the minimum lot sizes specified in this ordinance shall be increased as required by the results of the site evaluation. As a minimum, and unless required otherwise by the County Sanitarian, the following shall apply:
  - i. The minimum lot shall be of a size consistent with the requirements of the Chowan County Zoning Ordinance. All lots shall be in compliance with current Health Department regulations.
  - ii. Wells shall be located at least 100 feet from any septic tank or filter field, whether on the same lot or another adjoining lot.
- f) Corner lots for residential use shall have an extra width of ten feet to permit adequate building setback from side streets.
- g) Double frontage and reverse frontage lots shall be avoided, except where required to separate residential development from through traffic.
- h) Side lot lines shall be substantially at right angles or radial to street lines.
- i) All lots shall comply with the lot access requirements of Section 6.04 B. of the Chowan County Zoning Ordinance.
- j) Lots within Planned Unit Developments shall comply with the requirements of Sections 6.07 and 8.67 of the Chowan County Zoning Ordinance.

- k) Condominium developments and townhouse developments shall comply with the requirements of Section 8.97 of the Chowan County Zoning Ordinance.
- l) Lots within cluster developments shall comply with the requirements of Section 6.01 B. of the Chowan County Zoning Ordinance.
- m) Lots within subdivisions located adjacent to thoroughfare streets with capacity deficiencies and lots within nonresidential subdivisions shall comply with the following requirements:
  - a. Major and minor subdivisions shall not be approved that propose individual residential lots with direct vehicular access to roads that have, in the opinion of the NCDOT, capacity deficiencies or reduced levels of service that warrant the prohibition of the platting of lots with direct vehicular access.
  - b. Whenever a proposed major or minor subdivision abuts any principal arterial, minor arterial, major collector, or minor collector (as delineated on the latest adopted Thoroughfare Plan or as designated by Chowan County), the Planning Board, or the Subdivision Administrator in the case of a minor subdivision, may prohibit the platting of lots with direct vehicular access to such roads. The Planning Board's or Subdivision Administrator's decision to require suitable access shall be based upon the need to provide safe access to proposed lots, reduce interference with the existing traffic pattern and flow, and provide buffering of the proposed lots from adverse effects from traffic noise. When a major subdivision fronts on an arterial road or highway, the Planning Board may require a marginal access street to provide access to lots fronting on the arterial road or highway.
  - c. In order to reduce traffic congestion, commercial and industrial subdivisions may be required by the Planning Board, after consultation with the NCDOT, to provide a frontage road or other suitable means of access along major thoroughfares, as shown on the adopted thoroughfare plan or as designated by Chowan County, unless the Planning Board determines that no practicable alternative for access exists. Where a frontage road is required, intersections with public streets shall be spaced no closer than 800 feet. Frontage roads may be permitted within the rights-of-way of existing streets subject to the approval of the NCDOT.
  - d. Access to lots in proposed subdivisions located in HCO, Highway Corridor Overlay Districts shall comply with the requirements of Section 7.03.
- n) Lots within Traditional Neighborhood Developments shall comply with the requirements of Sections 6.09 and 8.98 of the Chowan County Zoning Ordinance.
- o) Flag lots shall comply with the following requirements:
  - a. A flag lot shall serve only one single-family dwelling and its uninhabited accessory structures;
  - b. Generally, the maximum flagpole length shall not exceed 400 feet. However, the applicable review authority may authorize a length in excess of 400 feet if, in the opinion of the review authority, extenuating site conditions warrant a greater flagpole length;
  - c. The minimum flagpole width on an approved public or private street shall be 20 feet;

- d. The maximum lot area shall be 3 acres. (Note: The 'flagpole' portion of the lot is not used to calculate lot area, width, depth, and setbacks of the lot or to provide off-street parking.);
  - e. The minimum separation between the flagpole portion of the lot and that of another flag lot shall be 300 feet;
  - f. Where public water is available, any residence on the flag lot must be within 500 feet of a hydrant. This distance shall be measured along the street, then along the flagpole, then in a straight line to the building location;
  - g. Where public sewer is available, the residence on the flag lot shall have a gravity service line or the sewer pump requirements shall be noted on the plat;
  - h. Use of a single driveway to serve a flag lot and an adjoining conventional lot is permitted and encouraged; the preferred location for the driveway is in the flagpole portion of the flag lot, with the conventional lot granted an access easement over the flagpole;
  - i. No resubdivision of a flag lot shall be permitted unless access to the proposed new lot(s) can be provided from an approved private easement, public street, or private street; and
  - j. Flag lots shall be approved only where the configuration of the parcel or site features warrant such a lot design. Authorizing a flag lot design is intended to accommodate a particular extenuating circumstance which makes conventional lot design infeasible. Therefore, flag lots should be judiciously approved. Requests for the creation of more than one flag lot from the same parcel shall be reviewed by the Planning Board using the subdivision review procedures delineated in Article IV, Section 2.0.
- p) Lots platted on an access easement shall comply with the requirements of Article VI, Section 1.0, (e).

### **SECTION 3.0 - BUILDING SETBACK LINES:**

- a) The County Commissioners and the Planning Board recognize that many areas in Chowan County offer a developer the opportunity of creating a unique living environment. Developers are encouraged to take advantage of the unique characteristics of their properties, such as topography, water frontage, trees and shrubbery, and other aesthetic attributes. Exceptions and modifications or waivers to the standards and requirements of this ordinance will be considered, providing that such waivers will not have the effect of nullifying this ordinance.
- b) Traditional building lot minimum building setbacks shall comply with Table 6-1, Table of Density and Dimensional Requirements of the Chowan County Zoning Ordinance. Building setbacks within townhouse and condominium developments shall comply with Section 8.97 of the Chowan County Zoning Ordinance. Building setbacks within cluster developments shall comply with the requirements of Section 6.01 of the Chowan County Zoning Ordinance. Building setbacks within Planned Unit Developments shall comply with the requirements of Sections 6.07 and 8.67 of the Chowan County Zoning Ordinance. Building setbacks within Traditional Neighborhood Developments shall comply with the requirements of Sections 6.09 and 8.98 of the Chowan County Zoning Ordinance.

#### **SECTION 4.0 - BLOCKS:**

Blocks shall be laid out with special attention given to the type of use contemplated.

- a) Block lengths shall not exceed 1,500 feet or be less than 500 feet.
- b) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.

#### **SECTION 5.0 - EASEMENTS:**

Easements centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least twenty feet wide.

- a) Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.
- b) Lakes, ponds, creeks, and similar areas may be accepted for maintenance only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. Such areas must be approved by the Planning Board before approval of the final plat. Dedication of such areas does not constitute county acceptance of such areas for maintenance. The Board of County Commissioners will consider acceptance by resolution referencing said dedication and plat reference.

#### **SECTION 6.0 - BUFFER STRIPS:**

- a) "Buffer Strip" shall be defined as a separate area of land, owned by the developer, subdivider, or a homeowners association that shall not be developed and is designed and maintained to separate land uses deemed incompatible. Buffer strips shall be excluded from the computation of recreational or open space referenced in this Subdivision Ordinance or the Chowan County Zoning Ordinance.

b) The developer or subdivider of subdivisions of 5 or more lots located adjacent to US and primary or secondary NC Highways, railroads, industrial or commercial developments, or watercourses shall establish and maintain a continuous and uninterrupted buffer strip a minimum of 35 feet in depth in addition to the normal lot depth required.

- i. The purpose of the buffer strip is to provide a safety, visual, and noise barrier to traffic and to separate incompatible land uses.
- ii. The buffer strip shall be a part of the platted subdivision and shall have the following restrictions lettered on the face of the plat: "This buffer strip is reserved for the planting of trees, shrubs, or groundcover; the building of structures, the establishment of private or public streets or roads, and the recreational use of any type of motorized self-propelled vehicles hereon is prohibited." Buffer strips shall be excluded from the computation of

[recreational or open space referenced in this Subdivision Ordinance or the Chowan County Zoning Ordinance.](#)

- iii. [The buffer strip as described herein shall be required whenever a total of five \(5\) or more lots have been subdivided from the same parcel regardless of the incremental timing of the platting of the lots.](#)

c) The developer or subdivider, or a property owners association incorporated in accordance with N.C.G.S. Chapter 55, shall provide for the perpetual maintenance and enforcement of buffer strips. Guarantee of maintenance and enforcement of the buffer strip shall be provided in the form of a Declaration of Covenants creating a property owners association and containing, appropriate bylaws, covenants or deed restrictions, which adequately address maintenance, apportionment of financial responsibility, and enforcement. Chowan County legal counsel shall approve the adequacy of these materials prior to final plat review and approval. These materials shall be recorded at the same time as the final plat and shall be appropriately cross-referenced in the county register of deeds office. Property owners associations shall be established according to the provisions of Article VII, Section 6.0. In lieu of creation of a property owners association with adequate financial provisions, perpetual maintenance of a buffer strip may be guaranteed by a surety bond, cash, certified check, or irrevocable line of credit in an amount determined annually by the Board of County Commissioners or a duly authorized representative of the Board of County Commissioners.

d) Buffer strips shall be continuous, may only be broken by approved street entranceways as approved on the final plat, and shall not be interrupted by individual driveways to lots. Notwithstanding any other design standards in these regulations requiring minimum distances between subdivision street intersections at major streets or highways, the number and location of streets serving as entranceways to major subdivisions from railroads, US Highway 17, primary NC Highways 32, 37, and 94, primary NC Highways 32, 37, and 94, secondary NC highways in the County, and, or from boundaries of adjacent industrial or commercial developments, shall be approved by the applicable review authority. *[Enacted by the Chowan County Board of Commissioners January 18, 2005. effective for major subdivision submittals commencing January 19, 2005 and subsequent.]*

## **SECTION 7.0 - UTILITIES:**

a) Every subdivision lot intended for building purposes shall be served by a water supply system and a sewage disposal system that (i) is adequate to accommodate the reasonable needs of the proposed use of the lot and (ii) complies with all applicable county water and sewer requirements and county health department regulations. Water and sewer systems shall be designed in accordance with all state requirements, the Chowan County Standard Details prepared by the Chowan County Water Department or the standards of other appropriate water utility providers, and the requirements of these regulations. No utility improvements shall be constructed until the utility construction plans have been reviewed and approved by the appropriate utility provider. Work performed pursuant to approved utility construction plans shall be inspected and approved by the Chowan County Water Department or the appropriate utility provider.

b) Connections to public water systems shall be made in accordance with the following provisions:

1. Connection of each lot to a public water supply and distribution system shall be required if the proposed subdivision is within the minimum distance of the nearest adequate lines of a public system as specified in the following formula:

Number of lots in the proposed subdivision X 100 feet = minimum mandatory connection distance, up to a maximum of 5,000 feet

For example, if a proposed 25-lot subdivision is within 2,500 feet (25 lots x 100 feet = 2,500 feet minimum mandatory connection distance) of an existing public water line, such subdivision would be required to connect to the existing water system.

2. In determining the number of lots proposed for the subdivision, all phases of the proposed subdivision shall be considered.
3. In the event that a proposed subdivision should meet the minimum mandatory connection distance specification requirements of subsection (1) and the publicly owned or operated water supply and distribution system to which the subdivision would connect shall have insufficient capacity to permit the delivery of water to said subdivision, the subject subdivision shall be relieved of the requirement to connect to such public water system.
4. Where a proposed subdivision is not required to connect to a public water line based upon the minimum mandatory distance formula in subsection 1. or where, in the opinion of the Planning Board and the Chowan County Water Department, a proposed subdivision cannot be economically connected to a publicly owned or operated water distribution system, wells and/or other private water systems shall be constructed in accordance with the standards and specification of the County Health Department, applicable County ordinances, and applicable State of North Carolina regulations. The proposed subdivision must contain adequate land area (based on information concerning soils, water table, type of sewage disposal, etc.) for the installation of a private water supply system and must be approved in writing by the County Health Department.
5. When a subdivider is required to install a water distribution system pursuant to this Section, the plans for the water distribution system to be so installed shall be submitted to the Director of the Chowan County Water Department or other appropriate water utility provider prior to final approval of the record plat. The location, size and specifications of the water distribution system shall be placed upon said plat for review and approval. The Director of Chowan County Water Department or other appropriate water utility provider shall review the information supplied and determine whether the plans meet the requirements of this Section and the standards and specification of the Chowan County Public Utilities Department or other appropriate water utility provider.

c) Fire Hydrants

In major subdivisions with new roads where an adequate public water supply system is available, the subdivider shall install fire hydrants in such a manner that the subdivision is afforded adequate fire protection.

1. All hydrants shall be American Water Works Association-approved.
2. No fire hydrant shall be installed on less than a 6-inch main.

3. Hydrants shall have two 2.5-inch and one 4.5-inch connection with threads of the National Standard Thread type.
  4. The upper hydrant operation stem within the bonnet shall be sealed and lubricated by means of an oil or grease bath. The operating nut shall be National Standard Pentagon type measuring 1.5 inches from point to flat. Hydrants shall open left.
  5. In residential districts, fire hydrants shall be located in such a manner that no lot is further than five hundred feet from a hydrant. The distance between hydrants, shall be measured along street centerlines. There shall be at least one) fire hydrant at each intersection. When residential intersections are less than seven hundred feet apart, a hydrant is not required between the intersections.
  6. All hydrants shall be furnished with barrel and stem extensions as required for the final field location. Nominal minimum bury will be 3.5 feet.
  7. All fire hydrants shall be located on the right side of the roadway in which responding fire apparatus would travel into subdivisions.
  8. All hydrants at finish grade shall measure 18 inches from ground to center of steamer cap.
  9. The Fire Marshal's office shall approve all hydrant types and locations in new subdivisions and any alterations to these regulations related to fire hydrants and fire protection.
- d) Sewage disposal systems shall comply with the following requirements:
1. Individual septic systems or private sewage disposal systems shall be constructed in accordance with the standards and specification of the County Health Department, applicable County ordinances, and applicable State of North Carolina regulations. The proposed subdivision must contain adequate land area (based on information concerning soils, water table, type of water supply, etc.) for the installation of a private sewage disposal system and must be approved in writing by the County Health Department.
  2. The plans for the sewage disposal system to be so installed shall be submitted to the County Director of Public Utilities or other appropriate utility provider prior to final approval of the record plat. The location, size and specifications of the sewage disposal system shall be placed upon said plat for review and approval. The County Director of Public Utilities or other appropriate utility provider shall review the information supplied and determine whether the plans meet the requirements of this Section and the standards and specification of the Chowan County Public Utilities Department or other appropriate utility provider.
- e) As-built Drawings
- Two copies of as-built drawings shall be submitted to the Director of the Chowan County Water Department or other appropriate utility provider within 30 days of the completion or installation of required utility, stormwater, street, park, and recreational

improvements. Final plat approval shall be withheld until all required as-built drawings are provided to the County.

f) Oversized Utility Improvements

In the interest of adequately providing service to adjacent properties, the County may require the installation of certain oversized utility improvements or the extension of utility improvements to adjacent properties. If the County requires the installation of utility improvements in excess of the standards and specifications required in these regulations as well as those adopted by reference, the County shall, in pursuant to its adopted utility policies, pay the cost differential between the required oversized improvements and the standard improvements required by these regulations.

**SECTION 8.0 - WATERFRONT LOTS - SPECIAL DESIGN CRITERIA:**

- a) Because of special water quality concerns in Chowan County as a coastal county, where a subdivision contains lots which adjoin the Chowan River, the Albemarle Sound, or their impounded waters and tributaries, no construction or building, other than that specified in this ordinance, shall take place within 50 feet landward of the mean high water mark. This 50-foot setback from the shoreline may include the required setbacks stated in Article V, Section 3.0.
- b) The 50-foot setback area shall not contain any buildings or related structures, such as decks, paved patios, or utility sheds. On-site septic systems and nitrification lines are also prohibited from this area. The primary use of the area is the growth of natural vegetation such as a grassed lawn.
- c) The only structure permissible within the waterfront set-back area is an elevated pier of wood construction, no more than six feet wide, constructed to provide access to the water.
- d) Developers will also be responsible for compliance with the N.C. Department of Environment and Natural Resources, Division of Water Quality Stormwater Rules.

**SECTION 9.0 - DEDICATION OF ACCESS FOR WATERFRONT DEVELOPMENTS:**

- a) Where a subdivision which adjoins the Chowan River or the Albemarle Sound, or their impounded waters and tributaries, contains interior lots, parcels, or tracts of land which do not adjoin the water's edge, but any part of which is within 500 feet of the water's edge, one or more lots which adjoin the water's edge shall be reserved to provide water access for the owners of interior properties or as public access sites. Such lots shall hereafter be called "water access lots."
- b) If property which is in the same ownership adjoins said subdivision, this property shall be construed as being a part of the subdivision for purposes of determining requirements of water access lots. Also, if only waterfront lots are developed, the provisions of this section shall still be applicable.
- c) The water access lots shall equal an area not less than 8% of the area (exclusive of streets) of all the interior property which lies within 500 feet of the water's edge. Where the 8% would equal less than 2,000 square feet, the subdivider shall not be required to provide any water access lots. All water access lots shall have a minimum frontage at the water's edge of 100 feet.

- d) All water access lots shall abut both a street and the water shoreline.
- e) The water access lots shall either be dedicated to the County (but only if the Board of Commissioners agrees to accept such dedication) or shall be transferred in fee simple title to the common ownership of all owners of the subdivision.
- f) Before approval of the final plat can be given, the subdivider shall submit to the Planning Board a covenant stating either:
  - 1. that he will dedicate the required amount of water access lots to Chowan County, or
  - 2. that he will convey title to the water access lots to the purchasers of each interior lot, said purchasers to have common ownership of the water access lots with undivided fee simple interest and shall be equally responsible for the maintenance of water access lots.
- g) If the subdivider chooses to dedicate the water access lots to the County, the Board of Commissioners must have agreed to accept the responsibility of maintaining the lots, and the preliminary plat and the final plat must show the dedication.
- h) If the title is transferred to the interior lot owners, the preliminary plat and final plat shall designate the following:
  - 1. the lot or lots that are to serve as water access lots, and
  - 2. the lots the owners of which are to have common title to the water access lots. (Example: Owners of Lots 1, 2, 3, 4, 5, etc., to have undivided fee simple title to this water access lot).

**SECTION 10.0 – STORMWATER MANAGEMENT STANDARDS:**

**ARTICLE V**

**SECTION 10.0 – STORMWATER AND DRAINAGE MANAGEMENT STANDARDS:**

- a) All development not classified as a minor subdivision shall be required to control and treat the stormwater runoff generated by a 1.5-inch rain event, and comply with Article V, Article VIII, and Article VIII Appendices.
- b) A draft sketch of proposed stormwater and drainage management systems shall be submitted 30 days prior to the Chowan County Soil and Water Conservation District Technician and Subdivision Administrator for review prior to a site visit.
- c) A project site visit shall be scheduled with the Chowan County Soil and Water Conservation District Technician and Subdivision Administrator to review and discuss the proposed stormwater and drainage management systems. The recommended and agreed upon stormwater and drainage management systems shall be designed using the criteria listed below. **Minor development projects (1-4 lots)** that do not require engineered stormwater and drainage management structures designed by registered professionals must have, at a minimum, a stormwater and drainage management plan approved by the Chowan County Soil and Water Conservation District Technician and Subdivision Administrator.
- d) Structural stormwater and drainage management controls must meet the following criteria:

1) Stormwater and drainage management plans shall include an analysis of tailwater concerns i.e., down-stream flow capacities that result in upstream ponding and flooding. Building pads and finished floor elevations shall be based on this analysis. Plans shall also include an analysis of upstream and downstream drainage to identify the most limiting factor for bank-full flow, which may be a ditch, culvert or structure. If a culvert or a structure is not the limiting factor in the upstream or downstream analysis, then approximately 1000 feet of existing channel shall be used. The upstream analysis shall also consider the drainage capacities of the existing upstream drainage system. All drainage components within the proposed development that transport upstream flow must equal or exceed the upstream drainage capacity.

2. The ten-year frequency storm shall be used as design criteria for all components of the proposed development. Ditches or canals through proposed developments must carry the existing upstream flow at bank-full, or 10-year storm, whichever is greater.

- A 100-year frequency storm event shall be used to predict out-of-bank water surface elevations. Building pads and finished floor elevations must be based on this analysis. The building pad of all buildings must be above the 100 year storm elevation.

3. Post development run-off rates must be equal to or less than pre-development run-off rates. The drainage analysis shall include predictions of surface water elevations for out-of-bank flow for the watershed that includes the proposed development site. This requires using cross sections, which may exceed the boundaries of the proposed development.

4. For wet detention ponds draw down the treatment volume no faster than 48 hours, but no slower than 120 hours.

5. Meet the General Engineering Design Criteria set forth in 15A NCAC 02H.1008(c).

6. Prohibit new points of stormwater discharge to SA waters or expansion (increase in the volume of stormwater flow through conveyances or increase in capacity of conveyances) of existing stormwater conveyance systems that drain to SA waters. Any modification or redesign of a stormwater conveyance system within the contributing drainage basin must not increase the net amount or rate of stormwater discharge through existing outfalls to SA waters. Diffuse flow of stormwater at a non-erosive velocity to a vegetated buffer or other natural area capable of providing effective infiltration of the runoff from the 1-year, 24-hour storm shall not be considered a direct point of stormwater discharge. Consideration shall be given to soil type, slope, vegetation, and existing hydrology when evaluating infiltration effectiveness.

e) The following order of preference shall be considered in the approval of designed on-site stormwater and drainage management systems:

- 1) Constructed wetlands
- 2) Open vegetated swales and natural depressions
- 3) Infiltration
- 4) Retention (permanent pool) structures
- 5) Detention (no permanent pool) structures.

The order of preference shall be modified where necessary, to accommodate requirements of the State of North Carolina for controlling stormwater quality.

f) A constructed wetland shall complement, and in some cases may totally replace, traditional ditch-drainage systems required for residential and commercial development on flat landscapes. This BMP improves water storage and water management associated with residential and commercial development.

This BMP also creates better biodiversity for mosquito control, and eliminates the need for protective measures (fencing) associated with traditional retention and detention ponds and structures. (SEE WETLAND SPECIFICATIONS IN ARTICLE VIII, SECTION 7).

Constructed wetlands or swales (minimum 6:1 side slopes) are preferred over traditional ditches. Maintenance easements shall be the width of the constructed wetland or swale. All major drainage ditches or canals that are not converted to wetlands or swales shall require a 30 foot maintenance area. A sufficient and approved easement shall be required for the 30 foot maintenance area and the entire width of the ditch or canal.

Although the use of natural wetlands for storing and purifying water is encouraged, care must be taken not to overload their capacity, thereby harming the wetlands and transitional vegetation. Natural wetlands shall not be damaged by the construction of detention ponds. Developers shall acquire applicable permits from the state and federal agencies.

g) Detention ponds shall be used to detain increased and accelerated runoff caused by development or redevelopment if the runoff is discharged to a water body, watercourse or wetland. Water shall be released from detention ponds into water bodies, watercourses or wetlands at a rate and in a manner approximating the natural flow that would have occurred before development.

h) Where detention and retention structures are used, designs that consolidate these facilities into a limited number of large structures shall be preferred over designs that utilize a large number of small structures.

i) Artificial watercourses shall be designed, considering soil type, so that the velocity of flow is low enough to prevent, or minimize to the maximum extent practicable, erosion.

j) Vegetated buffer strips shall be created or, where practicable, retained in their natural state along the stormwater control measures. The width of the buffer shall be sufficient to prevent erosion and trap the sediment in overland runoff.

k) Intermittent watercourses, such as swales, shall be vegetated.

l) Setbacks for impervious surfaces from receiving waters shall be as follows:  
1. All impervious surfaces, except for roads, paths, and water-dependent structures, shall be located at least 30 feet landward of all perennial and intermittent surface waters.

m) Stormwater management plans shall be certified by a North Carolina registered stormwater professional to be in conformity with the latest edition of the North Carolina Stormwater Best Management Practices Manual and the requirements of this Section. Stormwater management plans shall contain the information required in Article VIII, Section 6.0 for stormwater management plans.

A stormwater management and drainage maintenance plan shall be submitted for review to the Chowan County Soil & Water Conservation District prior to approval of any preliminary plat. The Chowan County Soil & Water Conservation District shall certify to the Subdivision Administrator that the proposed plan for development will not.

1. Unreasonably burden adjacent properties with surface waters as a result of such development;
2. Impede the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties; and

3. Result in surface waters from such development being unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

n) A stormwater and drainage management and maintenance plan shall be submitted to the Chowan County Soil and Water Conservation District Technician and Subdivision Administrator prior to the approval of a preliminary subdivision plat. The plan shall identify the party or entity responsible for ownership and maintenance activities. Plans for the operation and maintenance of stormwater control and drainage management structures shall comply with the requirements of Article VIII, Section 6.0. Recorded deed restrictions including easements dedicated on the final plat shall be required to ensure management and maintenance consistent with approved stormwater and drainage management plans. The maintenance of stormwater control and drainage management structures shall be guaranteed by the subdivider in restrictions or covenants approved by the County Subdivision Administrator and consistent with Article IV, Section 2.4, d).

o) All engineered stormwater control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers, landscape architects, to the extent that the General Statutes, Chapter 89A allow, and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes Chapter 89 C-3(7).

p) All new stormwater control structures shall be conditioned on the posting, in accordance with provisions of Article VI, Section.3.0, of adequate financial assurance for the purpose of maintenance, repairs or reconstruction necessary for adequate performance of the stormwater control structures.

q) The storm drainage system shall follow existing topography as nearly as practical, shall divert stormwater away from surface waters, and shall incorporate stormwater Best Management Practices to minimize adverse water quality impacts. The banks of ditches shall be immediately seeded upon grading and installation of utilities and the ditch itself shall be improved with appropriate vegetative cover to retard erosion.

r) No surface water shall be channeled into a sanitary sewer.

s) Fill shall be placed so as not to cause water to be diverted to an adjacent property. The maximum amount of fill at any location shall be limited to an average of two (2) feet across the area filled, unless the applicant submits a professionally designed stormwater management plan.

t) Incidental filling on previously developed residential lots may exceed the two (2) feet limitation without submitting a professionally designed stormwater management plan, provided the incidental filling does not cause water to be diverted to adjacent property.

u) Pipe culverts shall be installed under driveways with proper design practices to allow passage of water. In subdivisions, the invert of all proposed culverts must be installed in accordance with the planned ditch profiles. For individual lots that impact existing drainage ditches, all proposed culverts must be installed at the elevation of the existing upstream and downstream culverts. If culverts are not present immediately upstream and downstream, **installation of properly sized culverts** shall be at the average upstream and downstream elevation of the existing ditch.

v) Land that has been cleared for development and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to revegetate the area within thirty (30) days (seeding, etc.).

w) Any person desiring to pave, stabilize or otherwise make impervious any area adjacent to or draining over any public right-of-way shall obtain a permit from the appropriate governing authority. The grading, drainage and material used adjacent to the public right-of-way shall be approved by the appropriate governing authority.

x) If a development changes ownership or engineering firms prior to or during construction, and the new owners or engineers change the approved stormwater and drainage management plan for the development, then the new owners and/or engineers must submit a new stormwater and drainage management plan to the Chowan County Soil and Water Conservation District Technician and the Subdivision Administrator for review (see step number one above).

y) Stormwater and drainage management and maintenance plans must be submitted to the Chowan County Soil and Water Conservation District Technician and the County Subdivision Administrator for review 30 days prior to a Planning Board meeting.

**SECTION 11.0 – SOIL EROSION AND SEDIMENTATION CONTROL:**

- a) No land use or conditional use permit may be issued and preliminary plat approval for subdivisions may not be given with respect to any development that would cause land disturbing activity requiring prior approval of an erosion and sedimentation control plan by the Land Quality Section, Division of Land Resources, NC Department of Environment and Natural Resources under NCGS 113A-57(4) unless the Land Quality Section has certified to the County, either that:
  - 1. An erosion control plan has been submitted to and approved by the Land Quality Section; or
  - 2. The Land Quality Section has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the Land Quality Section approves the erosion control plan.
- b) For purposes of this Section, 'land disturbing activity' means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and street construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation except activities that are exempt under NCGS 113A-52(6)). Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

**SECTION 12.0 –PRIVATE DEED RESTRICTIONS:**

- a) The subdivider is encouraged to prepare and record private deed restrictions (restrictive covenants) to establish development standards to address particular development and land use issues and/or to establish more desirable development standards that exceed Chowan County design standards and requirements. For example, subdividers may establish deed restrictions that address such issues as architectural design, building materials, minimum building floor area, parking of recreational vehicles, home-based businesses, lot maintenance, etc. Deed restrictions are private agreements between the subdivider and lot buyers. Enforcement of deed restrictions is a private matter and is solely the responsibility of the lot owners and/or a property owners' association. Deed restrictions can not be enforced by Chowan County. The Subdivision Administrator or

any other official of Chowan County will not be involved in the enforcement of private deed restrictions.

## ARTICLE VI: IMPROVEMENTS

### SECTION 1.0 - GENERAL:

No subdivision shall be granted final approval unless the following improvements either have been constructed or approved plans prepared and their execution guaranteed in accordance with the provisions of Article IV, Section 1.4. If the services of a consultant are required by the County Commissioners to determine if improvements have been properly made or properly guaranteed as provided by this ordinance, the costs of such services shall be paid by the subdivider.

- a) Within the corporate limits of any municipality whose governing body agrees by resolution to these regulations. Grading street rights-of-way, paving roadways at the designated width, and installing facilities for water supply, sewage collection, and surface drainage, all in conformance with standards specified by the various town engineers. The design of all public streets and roads, and the drainage, base preparation, paving, and subsequent maintenance, shall be approved by the State Department of Transportation and shall meet the standards of that agency.
- b) Within Chowan County, but outside the limits of the jurisdiction of a municipality. The subdivider of any subdivision shall design, clear, pave, and maintain all public streets and roads to meet the State Department of Transportation standards, as contained in the current *Subdivision Roads Minimum Construction Standard*. The subdivider shall have the approval of that agency for his design and for the subsequent grading, drainage, base preparation, paving, and maintenance.
- c) All private roads shall meet the standards of the Department of Transportation for design, and for drainage, base preparation, paving, and maintenance. Prior to recording of the final plat and prior to release of bond guarantees, the developer shall certify to the Chowan County Board of Commissioners that the roads were constructed as designed, i.e., according to the *N.C. Minimum Construction Standards for Subdivision Roads*. This certification may be in the form of a statement by a registered professional engineer or other qualified party acceptable to Chowan County.
- d) *(Reserved)*
- e) Access easements shall comply with the following requirements:
  1. An access easement shall serve no more than 3 single-family residential parcels;
  2. The minimum easement width shall be 45 feet and the maximum easement length shall be 400 feet;
  3. A minimum travelway of 12 feet in width with a minimum height clearance of 14 feet shall be provided;
  4. The travelway shall have a base course constructed to NCDOT road standards but paving of the travelway is not required;
  5. The access easement shall intersect with an approved public street;

6. The creation of lots on an access easement shall be limited to a one-time occurrence for any one parcel or tract existing at the time of the adoption of this Ordinance;
  7. Authorization for the creation of lots on an access easement shall be given by the Planning Board only after all other alternatives for providing access (public street or private street) have been considered and determined by the Planning Board not to be practicable. Requests for the creation of more than one access easement lot from the same parcel shall be reviewed by the Planning Board using the subdivision review procedures delineated in Article IV, Section 2.0;
  8. Easement lots may not be resubdivided if such resubdivision will create more than 3 lots accessing the private easement. The resubdivision of lots located on an access easement may be permitted if the existing access easement can be upgraded to a private or a public street that complies with the requirements of this Ordinance. A notation shall be placed on the face of the subdivision plat that states: 'No more than 3 lots, including the resubdivision of the lots served by the access easement, shall be permitted unless the access easement is upgraded by the property owner(s) to a private or public street that meets or exceeds the standards of Chowan County or the NCDOT, whichever is applicable';
  9. In cases where more than one lot is served by the access easement, a disclosure statement stating that maintenance of the access easement is the responsibility of the property owner(s) shall be placed on the plat;
  10. A recorded maintenance agreement shall be required in cases where more than one lot is served by the access easement;
  11. If the access easement serves more than one parcel, a sign approved by Chowan County shall be posted at the entrance of the access easement and shall state, '*Access Easement Maintained by Property Owners*'.
  12. If the access easement serves more than one parcel, a hammerhead style turn around may be required in order to provide adequate maneuvering space for emergency vehicles and service trucks.
  13. Each easement lot shall contain the minimum lot area for the zoning district in which located.
  14. The location of the easement must be recorded on the subdivision plat; and
  15. The access easement shall permit ingress, egress, and regress and necessary utilities required to serve the lot(s).
- f) The subdivider shall construct a water system to be connected to the system owned and operated by Chowan County, unless the subdivision is an exception defined in Article IV, Section 1.3.1 (i). The water system shall meet the specifications of the engineer of the County water system and be approved by the appropriate State agencies. The costs of the construction, connection, and approval of the subdivision water system shall be paid by the subdivider.

- g) The developer shall also be responsible, at his own expense, for proper installation of road and/or street name signs according to the following standards:
1. A nine inch vertical dimension shall be used on all streets.
  2. All signs shall be made of flat blades (2 per road name) with a green engineer grade reflective sheeting background and white engineer grade sheeting for message.
  3. Posts for mounting the signs will be made of aluminum round - 10' x 6" x 2.37 O.D. x 109" or galvanized steel square 12' x 2".
  4. Road name signs and posts shall be placed at least two feet behind the face of the curb with a minimum clearance of seven feet from the bottom of the sign to the projected edge of the pavement. If there is no curb and gutter, the signs will be placed behind the ditch line, out of the maintenance area.
  5. At least one road name sign (with message visible from both sides) shall be mounted at each intersection.
  6. Each sign on the secondary road system shall have a SR number followed by the road name. The letters "SR" and an arrow shall be placed above the secondary road number at the beginning of the sign.
  7. The road name must not have more than 14 letters. The road name with the appropriate "RD, ST, DR, AVE, CR, CT, PL, LN, TR, LP, SQ, BLVD, PKW, HWY, EXPWY, or FWY," shall follow the SR number.
  8. All the messages shall be in the upper case letters.
  9. The developer is responsible for the cost of the signs and post, installation of signs and post, and maintenance.
  10. Signs for identification of subdivisions shall comply with the requirements of Section 9.05 E. of the Chowan County Zoning Ordinance.

## **SECTION 2.0 – MONUMENTS:**

- a) Monuments: Permanent concrete monuments four inches in diameter or square, three feet long, shall be placed at not less than two corners of the subdivision, provided that additional monuments shall be placed where necessary so that no point within the subdivision lies more than 500 feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each monument shall have an indented cross, metal pin, or metal plat to identify properly the location of the point. All monuments shall be shown on the final plat.
- b) Property Corner Tie: At least one corner of the property surveyed shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Station or N.C. Grid System coordinated monument, then this corner shall be accurately tied to this station or monument by computed X and Y coordinates, which shall appear on the map with a statement identifying this station or monument or to an accuracy of 1:15000. When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable landmark or identifiable point, physical object, or structure.
- c) Markers: All lot corners, all points where the street lines intersect the exterior boundaries of the subdivision, and all angle points and points of curve in each street shall be marked with iron pipe no less than 3/4 inches in diameter and 30 inches long, driven so as to be two inches above the finished grade.
- d) Monuments: Permanent concrete monuments four inches in diameter or square, three feet long, shall be placed at not less than two corners of the subdivision, provided that additional monuments shall be placed where necessary so that no point within the subdivision lies more than 500 feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each

monument shall have an indented cross, metal pin, or metal plat to identify properly the location of the point. All monuments shall be shown on the final plat.

## **ARTICLE VII: SPECIAL PROVISIONS**

### **SECTION 1.0 – RESERVED**

### **SECTION 2.0 - RESERVED**

### **SECTION 3.0 - AMENDMENT:**

The Chowan County Board of Commissioners may, from time to time, amend these regulations, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendations. The Planning Board shall have (60) days within which to submit a report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

An application for an amendment to these regulations shall be filed with the Subdivision Administrator not later than 14 days prior to the regularly scheduled Planning Board meeting. The application shall identify the section(s) of the regulations proposed to be amended, contain a description of the proposed amendment, and include documentation justifying the need for the proposed amendment. Fees as established by the Board of County Commissioners shall be paid by the applicant proposing an amendment. However, this fee shall not apply to amendments initiated by any County board or department.

Before amending these regulations, the Board of County Commissioners shall hold a public hearing. The Board shall cause notice of the hearing to be published once a week for two successive weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

### **SECTION 4.0 - CONFLICT:**

When the requirements of this ordinance conflict with the requirements of other lawfully adopted rules, regulations, or ordinances Chowan County, or deed restrictions imposed by the developer, the more stringent or higher requirements shall govern.

### **SECTION 5.0 - RESERVATION OF SITES FOR RECREATION AND OPEN SPACE:**

- a) In all subdivisions with ten (10) or more residential lots, excepting for cluster subdivisions which must comply with Section 6.01,B. of the Chowan County Zoning Ordinance, there shall be one or more recreation areas which shall be easily accessible to all residents.

The amount of recreation area shall be based upon a minimum of 200 square feet for each residential lot. Twenty (20) or more lots will require 250 square feet for each lot. No single outdoor recreation area shall contain less than 2,000 square feet. Recreation areas shall be so located so as to be free of traffic hazards and should, where topography permits, be centrally located and shall be usable for recreation. Waterfront subdivisions may include waterfront access lots in recreation and open space calculations.

Additional open space requirements are applicable to the unsubdivided components of Planned Unit Developments and Traditional Neighborhood Developments (see Sections 8.67, E. and 8.98, J., respectively of the Chowan County Zoning Ordinance).

- b) Criteria for evaluating suitability of proposed recreational and open space areas shall include, but not be limited to, the following as determined by the Planning Board in consultation with the Director of the Edenton-Chowan County Recreation Department.
  - 1. Unity. The dedicated land shall be a single parcel except where it is determined that two or more parcels would be in the public interest. The Planning Board may require that the parcels be connected and may also require a path at least thirty feet in width in addition to the land requirement.
  - 2. Location. The dedicated land shall be located so as to serve the recreation needs of the immediate neighborhood within the subdivision.
  - 3. Physical Characteristics. The shape, topography and subsoils of the dedicated land shall be such as to be suitable for the intended use.
  - 4. Accessibility. Public access to the dedicated land shall be provided either by an abutting street or public easement. Such public easement shall be at least thirty feet in width.
- c) Fees in lieu of dedication. In lieu of the dedication of land as required in subsection b), a developer may provide funds in the amount of the assessed value, but not to exceed \$10,000.00 per acre, of the land required to be dedicated to Chowan County. The County may use the funds to purchase recreational land or areas to serve the subdivision or development in the immediate area. This may be done in lieu of providing the land required subsection a) above if so approved by the Chowan County Planning Board.
- d) The Planning Board may, in cases of an unusual or exceptional nature, allow adjustments in the dedication requirements established in this Section. Such adjustments shall be reviewed by the Director of the Edenton-Chowan County Recreation Department and the Planning Board. An unusual or exceptional nature may include, but not be limited to, land within the development set aside for private recreation or proposed expenditures for recreational facilities or equipment.
- e) The expenditure of recreation funds paid by the subdivider to the County in lieu of the dedication of land shall be determined by the Chowan County Board of Commissioners.
- f) If the land required for donation in a particular section of a subdivision exceeds the requirement in subsection a), the difference can be applied to future sections.
- g) If the overall master plan of a subdivision shows future recreation areas not included in the section receiving final plat approval, the donation of recreation land (or fees) shall not be required for that phase of development. However, if the amount of recreation land required by this Ordinance is not developed within one year of final plat approval, the requirements of subsections b) and c) shall immediately apply.
- h) Chowan County shall be divided into recreational districts by the Edenton-Chowan County Recreation Department for the purpose of distributing funds that are collected from the cash-in-lieu-of-land payments. These funds shall be spent only on capital improvements to county-owned recreational facilities.
- i) Open space and recreational space required by this Ordinance shall not be dedicated to the public except upon the written acceptance of Chowan County pursuant to subsection

k) but shall remain under the ownership and control of the developer (or successor in title) or a Property Owners' Association or similar organization established pursuant to Article VII, Section 6.0. As an alternative to a Property Owners' Association, a private non-profit organization, such as a private land trust, whose primary purpose is the preservation or conservation of open space may own and manage the proposed open space.

- j) The person or entity identified in subsection i) as having the right of ownership and control over such open space and recreational space shall be responsible for the continuing upkeep and maintenance of the same.
- k) The Board of County Commissioners shall have the authority to accept or reject offers for land dedications made as a requirement of this Section. Land proposed by the developer as public open space on a site plan shall be considered to be offered for dedication until such offer is officially accepted by the Chowan County Board of Commissioners. The offer may be accepted by the County through:
  - 1. Written acceptance by the Board of County Commissioners; or
  - 2. Written acceptance by an administrative officer designated by the Board of County Commissioners; or

Until such dedication has been accepted, land so offered may be used for open space purposes by the property owner or by a property owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use. The property owner shall be responsible for the maintenance of all facilities and improvements until an offer of dedication is accepted by Chowan County.

#### **SECTION 6.0 – PROPERTY OWNERS' ASSOCIATIONS:**

- a) Establishment of Owners' Association

- 1. Creation

An Owners' Association shall be established to fulfill the requirement of the North Carolina Condominium Act or to accept conveyance and maintenance of all common areas and facilities within a development containing common areas.

- 2. Conveyance

Where developments have common areas for facilities serving more than one dwelling unit, these areas shall be conveyed to the Owners' Association in which all owners of lots in the development shall be members. All areas other than public road rights-of-way, other areas dedicated to the County, and lots shall be shown and designated as common areas. The fee-simple title of the common area shall be conveyed by the subdivider or developer to the Owners' Association.

- 3. Subdivision or Conveyance of Common Area

Common areas shall not be subsequently subdivided or conveyed by the Owners' Association unless a revised preliminary plat and a revised final plat showing such subdivision or conveyance have been submitted and approved.

4. Owners' Association Not Required

Developments involving only two units attached by a party wall shall not be required to have common areas or an Owners' Association. Developments with only two units attached and not having an Owners' Association shall have an agreement between owners concerning maintenance of party walls.

b) Submission of Owners' Association Declaration

Prior to or concurrently with the submission of the final plat for review and approval, the applicant shall submit a copy of the proposed Bylaws of the Owners' Association containing covenants and restraints governing the Association, plats, and common areas. The submitted documents shall be reviewed by the Chowan County legal counsel and a recommendation made to the Board of County Commissioners as to their sufficiency. The restrictions shall include provisions for the following:

1. Existence Before Any Conveyance

The Owners' Association declaration shall be organized and in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.

2. Membership

Membership in the Owners' Association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions shall be made for the assimilation of owners in subsequent sections of the development.

3. Owners' Association Declaration

(a) Responsibilities of Owners' Association. The Owners' Association declaration shall state that the association is responsible for:

- (1) The payment of premiums for liability insurance and local taxes;
- (2) Maintenance of recreational and/or other facilities located on the common areas; and
- (3) Payment of assessments for public and private improvements made to or for the benefit of the common areas.

(b) Default of Owners' Association. Upon default by the Owners' Association in the payment to the County of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six months, each owner of a lot in the development shall become personally obligated to pay to the County a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the County by the total number of lots in the development. If the sum is not paid by the owner within thirty days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives and assigns. The

County may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the owner.

- (c) Powers of the Association. The Owners' Association is empowered to levy assessments against the owners of lots or units within the development. Such assessments shall be for the payment of expenditures made by the Owners' Association for the items set forth in this Section, and any assessments not paid by the owner against whom such assessments are made shall constitute a lien on the lot of the owner.
- (d) Easements. Easements over the common areas for access, ingress, and egress from and to public streets and walkways and easements for enjoyment of the common areas, and for parking, shall be granted to each lot owner.
- (e) Maintenance and Restoration. Provisions for common area maintenance of and restoration in the event of destruction or damage shall be established.

#### 4. Nonresidential Condominiums

If the condominium is a nonresidential condominium, the declaration shall contain the following provision:

Parking spaces shall be allocated among the individual lots or units in such a manner that each unit is entitled to a sufficient number of parking spaces to comply with these regulations for the use intended to be located therein. The Owners' Association shall maintain a register listing the total number of parking spaces in the development and the number of parking spaces allocated to each lot or unit. A copy of this register shall be available to the Subdivision Administrator at his/her request. The Owners' Association shall not reduce the number of parking spaces allocated to an individual lot or unit without the express written consent of the owner thereof, and in no case shall the number of parking spaces allocated to an individual unit be reduced to a number below that required by these regulations.

**ARTICLE VIII: APPENDICES**

**SECTION 1.0 – REQUIRED CERTIFICATES:**

The certificates listed herein shall either appear on, or be attached to, all final plats, if applicable.

a) Certificate of Ownership and Dedication

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish the minimum building lines, and dedicate all streets, alleys, walks, parks, and other open spaces to public or private use as noted. Further, I (we) \_\_\_\_\_ certify that the land as shown hereon is within the subdivision regulations jurisdiction of Chowan County

Date

Owner

b) Certificate of Accuracy and Mapping

I, \_\_\_\_\_, certify that this plat was drawn under by supervision from (an actual survey made under my supervision) deed description in Book \_\_\_\_\_, Page \_\_\_\_\_, etc. (Other; that the error of closure as calculated by latitudes and departures is 1:\_\_\_\_\_; that the boundaries not surveyed are shown as broken lines \_\_\_\_\_ plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_;) that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my hand and seal this \_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_.

Surveyor or Engineer

c) Notary Seal

North Carolina

\_\_\_\_\_ County

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that a registered land surveyor appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Official \_\_\_\_\_ Notary Public

d) CAMA Consistency Certificate

I hereby certify that this subdivision conform to the standards of the North Carolina Coastal Area Management Act of 1974 and is/is not located within any Area of Environmental concern.

Local Permit Officer

Date

d) Certificate of the Approval of Water System

I hereby certify that the water supply system installed, or proposed for installation, in the subdivision entitled \_\_\_\_\_, fully meets the requirements of the Chowan County Utilities Department, and is hereby approved as shown.

Date

Director, County Utilities Department

f) Certificate of Approval and Acceptance of Dedications

I, \_\_\_\_\_, the Clerk to the Board of Commissioners of Chowan County, do certify that Chowan County approved this plat or map and accepted the dedication of the easements, rights-of-way and public park shown thereon, but assume no responsibility to open or maintain the same until, in the opinion of the governing body of Chowan County, it is in the public interest to do so.

Date

Clerk to the Board of Commissioners

g) Review Officer Certificate

I, \_\_\_\_\_, review Officer of Chowan County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Date

Review Officer

g) Certificate of the Approval of Streets and Related Utilities

I hereby certify that streets and related utilities and improvements have been designed and will be installed in an acceptable manner, and according to County specifications and the current N.C. DOT *Subdivision Roads Minimum Construction Standards*, in the subdivision entitled:

Date

Developer's Engineer

h) Certificate of Approval of Surety for Improvement

I hereby certify: (1) that a security bond in the amount of \$\_\_\_\_\_ has been posted with the Chowan County Board of Commissioners for installing improvements in the subdivision entitled \_\_\_\_\_, or, (2) that a satisfactory financial arrangement has been made to assure completion of all required improvements in case of default.

Date

County Manager

i) Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Ordinance for Chowan County, with the exception of such waivers, if any, as are noted in the minutes of the County Commissioners and that it has been approved for recording in the office of the Registrar of Deeds.

Date

Subdivision Administrator

ADDITIONAL DISTRICT HEALTH DEPARTMENT CERTIFICATIONS

j) This subdivision, entitled \_\_\_\_\_, has been designed for the construction of individual sewage systems and meets the criteria and requirements of the District Health Department based on existing conditions and regulations. The District Health Department reserves the right to require additional improvements to these properties and to limit the number of bedrooms and size of structure based on site conditions upon issuance of the final site improvements permits. This certification does not constitute a warranty and is issued based on this subdivision being serviced by water system(s).

(Individual/Public)

District Health Director or designee

Date

k) ADDENDUM # 1

Artificial drainage has been installed in this subdivision according to plans and specifications prepared by \_\_\_\_\_ and based upon the requirement of the District Health Department to keep the seasonal high water table a minimum of twelve inches (12") below the septic tank nitrification lines. Proper landscaping and maintenance of these drainage facilities are the responsibility of the property owners to insure that septic tank malfunctions do not occur. The District Health Department assumes no responsibility for the design, maintenance, or the guaranteed performance of the artificial drainage measures and their effects.

Date

Certifier of Drainage Facilities

Date

l) Certificate of Disclosure - North Carolina Coastal Area Management Act

I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign, a statement which fully and accurately discloses that the buyer may have responsibility to obtain a development permit (minor or major) and the agency to which an application must be filed in order to obtain a permit prior to any undertaking or activity, subject to the requirement of the North Carolina Coastal Area Management Act.

Signature of Owner(s)

Date:

m) Certificate of Disclosure - Chowan County Floodplain Management

I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign, a statement which fully and accurately discloses that the subject real estate, or a portion of the subject real estate, is located within a flood hazard area and that the buyer must satisfy the requirements of the Chowan County Floodplain Management Regulations prior to the issuance of construction permits.

Signature of Owner(s)

Date:

n) Certificate of Disclosure for Private Developments

I (we) acknowledge that neither the State nor the County shall be responsible for maintenance of any streets, parks, drainage, open space, or other areas which are designated for private use. I (we) acknowledge that prior to contracting with a prospective buyer, I shall give the buyer a written statement which discloses the existence and location of such private areas and specifies the maintenance responsibilities for same. When applicable, the statement shall disclose that the street(s) will not be constructed to minimum standards sufficient to allow their inclusion on the State highway system for maintenance.

Signature of Owner(s)

Date:

## SECTION 2.0 – RESERVED

## SECTION 3.0 – REQUIRED INFORMATION CHECKLIST FOR PRELIMINARY AND FINAL PLATS:

This section contains a review checklist of the required submissions for both the preliminary and final plats, pursuant to Article IV, Sections 1.3.1 and 1.4.1. An "X" indicates that the information is required.

### Preliminary

- a)  The location of existing and platted property lines, streets, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts and drain pipes, water mains, City and County lines (if adjoining), and any public utility easements.
- b)  Boundaries of tract shown with bearings and distances.
- c)  Wooded areas, marshes, normal tidal variations, floodplains (where information is available), and any other conditions affecting the site.
- d)  Names of adjoining property owners or subdivisions.
- e)  Zoning classification, if any, both on the land to be subdivided and on adjoining land.
- f)  Proposed streets, street names, rights-of-way roadway widths, approximate grades, and public or private designation.
- g)  The plans for proposed utility layouts (sewer, water, gas, electricity) showing connections to existing systems or plans for community water systems, and community sewer systems, storm drainage, etc.
- h)  Other proposed rights-of-way or easements; locations, widths, and purposes.
- i)  Stormwater management and maintenance plans and required certifications.

### Final

- j)  Proposed lot lines, lot and block numbers, and approximate dimensions.
- k)  Proposed minimum building setback lines.
- l)  Contour map with intervals of two feet or less when required by the Planning Board.
- m)  Proposed parks, school sites, or other public open spaces, if any.
- n)  Title, date, north point, graphic, and numeric scale.
- o)  Name of owner, surveyor, and land planner.
  - 1. Site data:
- p)  Acreage in total tract
- q)  Acreage in parks, access sites, or other land usage
- r)  Total number of lots
- s)  Number and location of solid waste container sites
  - 1.  Sketch vicinity map showing relationship between subdivision and surrounding area.
  - 2.  A statement, as follows, signed by the local permit officer:  
  

*"This subdivision conforms to the standards of the North Carolina Coastal Area Management Act of 1974 and is/is not located within any Area of Environmental Concern."*
  - 3.  Required improvements installed or their installation guaranteed as provided in this ordinance; the inspection fee has been paid; and the certificates required by this ordinance have been properly filled out and signed.
  - 4.  Sufficient data to determine readily and reproduce on the ground, the location, bearing, and length of every street line, lot line, boundary line, block line, and building line, whether curved or straight, and including true north point. This should include the radius, center

angle, and tangent distance for the centerline of curved streets and curved property lines that are not the boundary of curved streets.

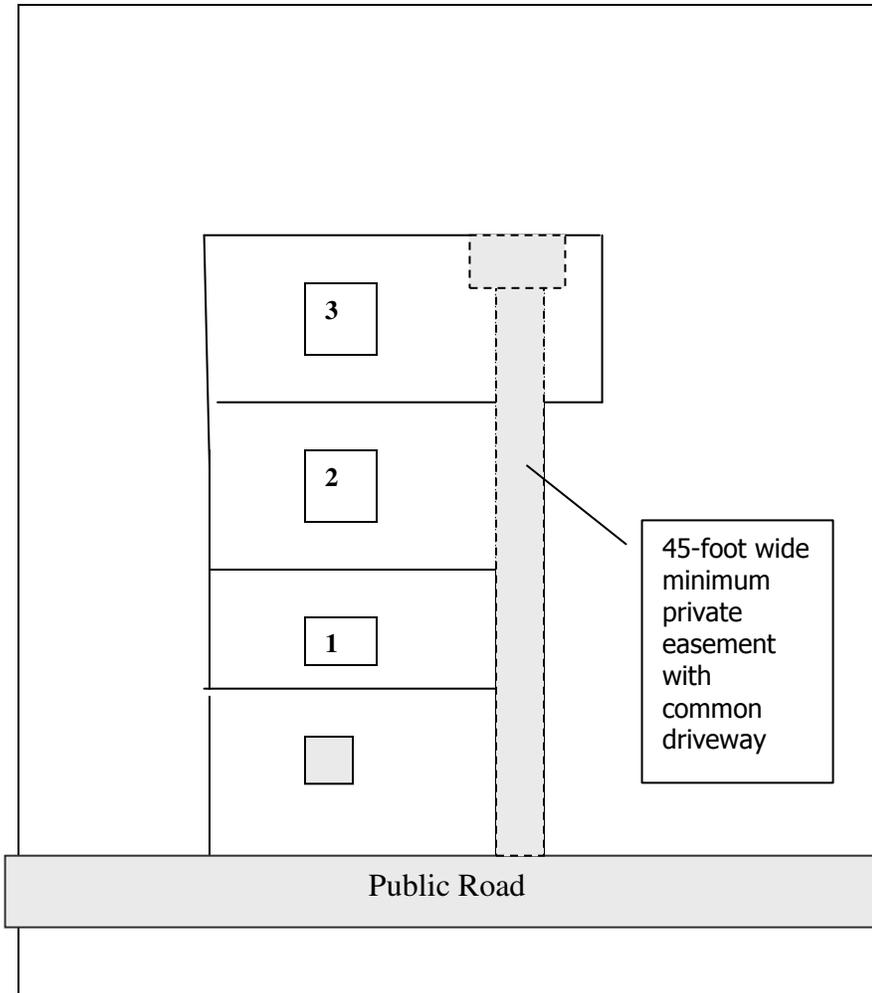
5.  All dimensions should be to the nearest one-tenth of a foot and angles to the nearest minute.
  6.  Accurate location and description of all monuments and stakes.
  7.  All of the certificates shown in Article VIII, Section 1.0, of this ordinance shall be rubber-stamped or otherwise shown.
- t)  Boundaries of Special Flood Hazard Areas.

#### **SECTION 4.0 - TYPICAL STREET AND ROADWAY DESIGN:**

The graphics, taken from the latest edition of *Subdivision Roads Minimum Construction Standards*, Division of Highways, N.C. Department of Transportation, are presented as examples of N.C. DOT-approved or recommended subdivision roadway and street design

The following figures illustrate typical arrangement using an access easement for access to approved lots served off a public street and a typical flag lot design. Other figures illustrate standard NCDOT roadway right-of-way and street designs. The current NC DOT *Subdivision Roads Minimum Construction Standards Manual*, published by the Division of Highways, shall be used for complete reference.

The following figure illustrates a typical lot arrangement using a private access easement that has direct access to a public road.



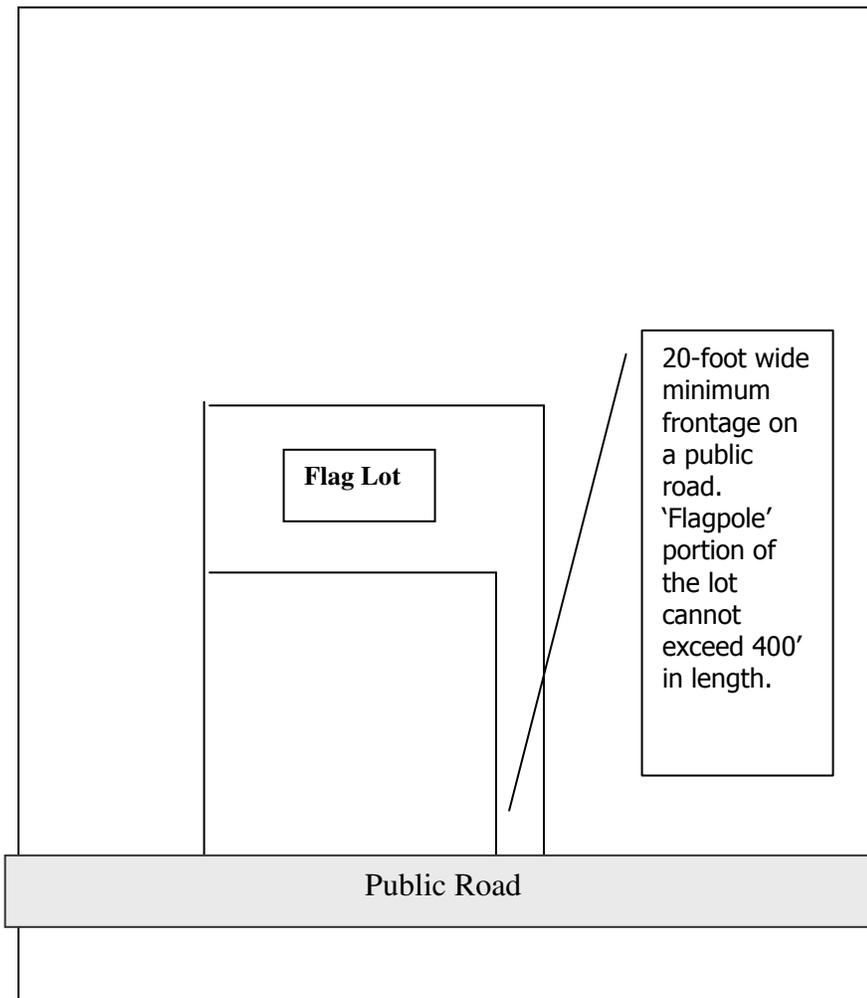
'Easement lots' may be allowed if a minimum 45-foot wide easement fronting on a public street for common driveway access is provided. The easement length can not exceed 400 feet. A 'hammerhead style turn around may be required if 2 or more lots are platted on an easement.

No more than 3 single-family residential lots are permitted to have access to a private easement. Easement lots may not be resubdivided if such resubdivision will create more than 3 lots accessing the private easement.

Access easements must comply with the requirements of Article VI, Section 1.0, (e).

**Figure 1**  
Easement Lots

The following figure illustrates a typical flag lot arrangement.



"Flag lots" may be allowed if a minimum of 20 feet of lot frontage on a public street is provided.

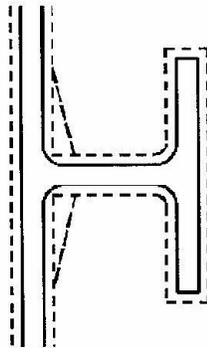
Flag lots shall serve only one single-family dwelling. The maximum lot area shall not exceed 3 acres.

The minimum separation between the 'flagpole' portion of the lot and that of another flag lot shall be 300 feet.

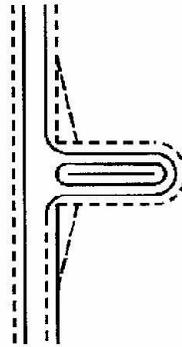
Flag lots should be approved only where the configuration of the parcel to be subdivided or other extenuating circumstances warrant the platting of such a lot.

Flag lots must comply with the requirements of Article V, Section 2.0, (o)

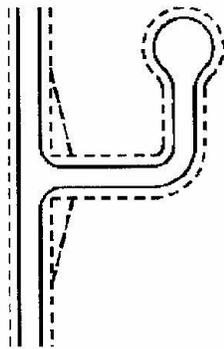
**Figure 2**  
Flag Lot



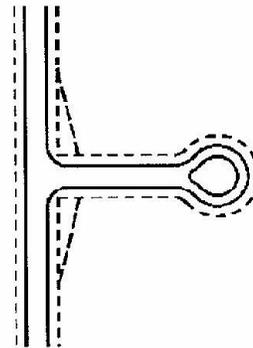
"T" CUL-DE-SAC



"LOOP" ROAD

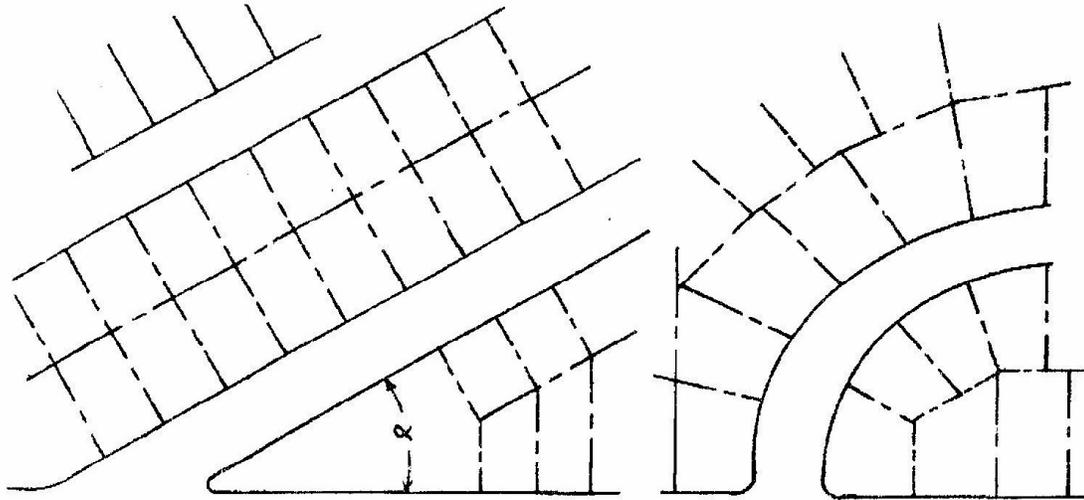


"L" CUL-DE-SAC



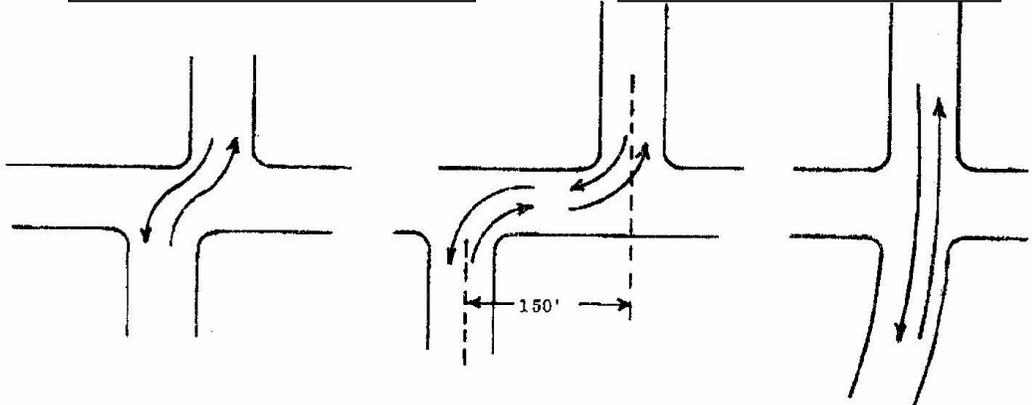
CUL-DE-SAC WITH INTERIOR ISLAND

NOTE: Permanent Drainage easements may be required to accommodate drainage beyond the right-of-way. Cul-de-sac designs other than the "Bulb" End Design will be subject to the approval of the Division Engineer after review on an individual basis.



Poor – unacceptable if angle is less than 70 degrees

Better – use 90 degree – right angle intersection



Poor – dangerous jog

Minimum – separate intersections by 150 feet

Better – align by slight curve to avoid offset

## **SECTION 5.0 - CHOWAN COUNTY WATER DEPARTMENT SUBDIVISION POLICIES:**

### a) General Provisions

1. Any subdivision developer or other person requesting permission to connect water lines to the County system is responsible for all costs associated with construction of the lines including preparation of plans, approval by County engineer, obtaining approval of State Health Department, installation of lines, and supervision of construction by water system personnel.
2. After acceptance by the County, water lines become the property of the County water system and will be maintained by the County.
3. Plans for water lines must be prepared or approved by the County engineer.
4. Plans must be approved by the N.C. Department of Health.
5. All pipe, valves, hydrants, and other materials must be inspected and approved by the County engineer and water superintendent prior to installation.
6. All water lines must be installed, tested, and disinfected under observation of the County engineer or water superintendent.
7. Service tap lines to meter box will be installed by the County. Cost of this service must be paid by water user.
8. A conference will be held prior to installation of any piping to discuss the specifications and how work is to be performed. The conference will be attended by the County Water Superintendent, developer, contractor representative, County Manager or Chairman of Board of Commissioners.
9. All pipeline tie-ins or taps to the County Water System will be performed by the County at the developer's expense.
10. The Contractor must guarantee and be responsible for repairs in all lines and service for a period of one year after acceptance by the County.

### b) Outline of Procedures

1. Notification of Design Approval - After a review of the proposed water distribution lines for each subdivision, Chowan County Water Department engineers will return the plans to the office of the County Manager with any comments and changes in the proposed design which will be required. The County Manager will return the approved copy of the plans and drawings, with the comments and any required changes, to the developer or his engineer.
2. Approval by the N.C. Division of Health Services - All extensions and additions to the Chowan County Water Department require by law approval by the N.C. Division of Health Services in Raleigh. Approval is obtained through submitting a request for approval form provided by the Division of Health Services to, State Division of Health Services, P.O. Box 2091, Raleigh, NC 27602. Chowan County requires that the subdivision developer furnish four (4) copies of the proposed water line plans and four (4) copies of the Division of Health Services application, to the office of the County Manager. The County Manager will then forward the plans and applications to the Division of Health Services for approval. After notification of approval from the Division of Health Services, the developer will be notified and the construction and installation of the water lines can begin.
3. Inspection of Water Line Installations - Chowan County requires that the developer or his water line contracting company have all water lines installed in accordance with the guidelines and specifications of the Chowan County Water Department. A copy of the specifications will be furnished by the County to the developer for use by his engineering firm and the water line contracting company. Chowan County also will require that all of the lines installed be inspected and approved by the Chowan County Water Superintendent.
4. As-Built Plans for Water Lines - The developer will be required to furnish to Chowan County, after the completion of all installation of water facilities, two (2) copies of engineering as-built plans. These plans will become a permanent part of the Chowan County Water Department files and records for future use in maintenance, repairs and water system design. The two (2) copies should be furnished by the developer's engineer to the Chowan County Water Superintendent.
5. Materials and Construction for Water Lines - In accordance with the rules and regulations of the Chowan County Water Department, all materials used in construction of water lines are to be in

accordance with specifications provided by the Chowan County Water Department. The installation of all lines and facilities will also be in accordance with the prescribed procedures and specifications of the County's water system.

## **SECTION 6.0 – STORMWATER AND DRAINAGE MANAGEMENT PLANS:**

a) Information Required with Stormwater and Drainage Management Plans. Stormwater and drainage management plans shall include the following information:

1. Applicant information (Name, legal address, and telephone number)
2. Common address and legal description of the property
3. Vicinity map
4. Existing conditions and proposed site layout (recommended scale of 1"=50') including at a minimum the following:
  - Existing topography (recommended minimum of 1-foot contours)
  - Perennial and intermittent streams
  - Mapping of predominant soils from USDA soil surveys
  - Boundaries of existing predominant vegetation and proposed limits of clearing and grading
  - Location and boundaries of all resource protection areas (e.g. floodplains, riparian buffers, wetlands)
  - Location of floodplain/floodway limits and relationship of site to upstream and downstream properties and drainages
  - Location of existing and proposed roads, buildings, parking lots, and other impervious surfaces
  - Location of existing and proposed utilities (e.g. water, wastewater, gas, electric) and easements
  - Location of existing and proposed stormwater conveyance systems such as grass channels, swales, and storm drains
  - Location of proposed channel modifications, such as bridge or culvert crossings
  - Sediment and erosion control features
  - Location, size, maintenance access, and limits of disturbance of proposed stormwater management practices
5. Signature and stamp of registered engineer, landscape architect, or other certified professional and designer/owner certification
6. Hydrologic and hydraulic analysis including:
  - Hydrologic analysis for existing conditions including runoff rates, volumes, and velocities showing methodologies used and supporting calculations (the analysis must use accepted engineering coefficients representative of the soils and conditions on the proposed site)
  - Hydrologic analysis for proposed (post-development) conditions including runoff rates, volumes and velocities showing the methodologies used and supporting calculations (the analysis must use accepted engineering coefficients representative of the soils and conditions on the proposed site)
  - Hydrologic and hydraulic analysis of the stormwater and drainage management systems based on the following storm events:
    1. The ten-year frequency storm shall be used as design criteria for all components of the proposed development. Ditches or canals through proposed developments must carry the existing upstream flow at bank-full, or 10-year storm, whichever is greater.
    2. A 100-year frequency storm event shall be used to predict out-of-bank water surface elevations. Building pads and finished floor elevations must be based on this analysis. The building pad of all buildings must be above the 100 year storm elevation.
  - Final sizing calculations for structural stormwater controls including contributing drainage area, storage, and outlet configuration
  - Stage-discharge or outlet rating curves and inflow and outflow hydrographs for storage facilities
  - Final analysis of potential downstream impact and effects of project, where necessary

- Dam safety and breach analysis, where necessary

7. Representative cross-section and profile drawings and details of structural stormwater controls and conveyances which include:

- Existing and proposed structural elevations (e.g., invert of pipes, manholes, etc.)
- Design water surface elevations
- Structural details of structural control designs, outlet structures, embankments, spillways, grade control structures, conveyance channels, etc.
- Stormwater and drainage management plans shall include an analysis of tailwater concerns i.e., down-stream flow capacities that result in upstream ponding and flooding. Building pads and finished floor elevations shall be based on this analysis. Plans shall also include an analysis of upstream and downstream drainage to identify the most limiting factor for bank-full flow, which may be a ditch, culvert or structure. If a culvert or a structure is not the limiting factor in the upstream or downstream analysis, then approximately 1000 feet of existing channel shall be used. The upstream analysis shall also consider the drainage capacities of the existing upstream drainage system. All drainage components within the proposed development that transport upstream flow must equal or exceed the upstream drainage capacity.
- Post development run-off rates must be equal to or less than pre-development run-off rates. The drainage analysis shall include predictions of surface water elevations for out-of-bank flow for the watershed that includes the proposed development site. This requires using cross sections, which may exceed the boundaries of the proposed development.

8. Applicable construction specifications

9. Landscaping plans for structural stormwater controls and any site reforestation or revegetation

10. Evidence of acquisition of all applicable local and non-local permits

11. Evidence of acquisition of all necessary legal agreements (e.g., easements, covenants, land trusts, etc.)

b) Operation and Maintenance of Stormwater Control Structures. The Stormwater and Drainage Operation and Maintenance Plan shall include the following information:

1. Name, legal address and phone number of responsible parties for maintenance activities
2. Description and schedule of maintenance tasks
3. Description of applicable easements
4. Description of funding source
5. Review of access and safety issues

c) Stormwater and drainage management and maintenance plans must be submitted to the Chowan County Soil and Water Conservation District Technician and the Subdivision Administrator County for review 30 days prior to a Planning Board meeting.

## **Article VIII Appendices**

### **Section 7.0 Stormwater Wetland Design**

The following considerations shall be used for designing constructed wetlands associated with and as part of the drainage system.

#### **Drainage**

- To ensure that a constructed wetland does not negatively impact storm flow, upstream and downstream drainage must be analyzed to identify the most limiting flow factor under bank-full flow, which may be a ditch, culvert or structure. If a culvert or a structure is not the limiting factor, then approximately 1000 feet of existing channel shall be used for the analysis.

- To predict surface water elevations for out-of-bank flow for given stormwater events, drainage evaluations must be performed using cross sections that span the entire watershed area impacted by the predicted out-of-bank flow.
- To ensure adequate storm flow in a densely planted wetland (assuming 100% plant coverage), the design shall use a roughness coefficient  $\geq 0.1$  (Manning's  $(n)$ ).
- Water control structures must be maintenance free and not require adjustments to handle stormwater flow. Semi-pervious rock weirs are desired and shall be designed for maximum bank-full flow as a channel restriction or submerged weir.

#### **Water Quality**

- Recommended to exceed minimum state requirements for storing and retaining **1.5 inches** of water for 2-5 days.
- Must maintain a permanent pool level of 6-18 inches.
- Must be designed to handle approximately 1 foot of sedimentation without impeding stormwater flow from upstream sources.

#### **Aesthetics**

- Should have 6:1 slopes and shaped to blend into the surrounding landscapes.
- Should be meandering, following old drain ways or depressions that served as natural drainage prior to development.

#### **Vegetation Requirements**

- Plant at a 3x3 spacing with indigenous wetland species such as spatterdock, bulrush, bur reed, cattail, swamp smartweed, pickerel weed, water lilies, green ash, swamp chestnut oak, cypress, and black gum.
- Wetland plants shall be planted at water depths that are found under natural conditions. For example, spatterdock shall be planted in areas where permanent water depths range from 12-18 inches.

#### **Maintenance Requirements**

- Replanting shall be required if less than 50% of the area is covered with wetland plants after the first year.
- Sediment removal is required only under extreme conditions where sedimentation has exceeded the designed holding level and changes the predicted upstream in-bank water profiles more than 0.5 ft.